

number or type of State or local officials who will continue to have access thereunder.

[See main edition for text of (2) to (5)]

(6) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18), the results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime with respect to such crime.

[See main edition for text of (c)]

(d) Students' rather than parents' permission or consent

For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

[See main edition for text of (e) to (g)]

(As amended Pub. L. 101-542, title II, § 203, Nov. 8, 1990, 104 Stat. 2385.)

CODIFICATION

Subsecs. (a)(2), (b)(1)(A), (C), and (d) are set out in this supplement to correct typographical errors appearing in the main edition.

AMENDMENTS

1990—Subsec. (b)(6). Pub. L. 101-542 added par. (6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1232i, 1417 of this title; title 25 section 3205; title 42 section 11432.

SUBCHAPTER IV—ADVISORY COUNCILS

§ 1233c. Compensation and travel expenses of members of advisory councils

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 1233d. Professional, technical and clerical staff

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

SUBCHAPTER V—ENFORCEMENT

§ 1234b. Measure of recovery

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1234a, 3032, 3271, 5071 of this title.

CHAPTER 33—EDUCATION OF INDIVIDUALS WITH DISABILITIES

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

1403. Abrogation of State sovereign immunity.
 (a) State immunity abrogated.
 (b) Availability of remedies.
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1409. Administrative provisions applicable to subchapters III through VII and section 1418.
 (a) Plan for implementation of authorized programs.
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 (i) Site visits.
 (j) Discretionary program findings.

SUBCHAPTER III—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF INDIVIDUALS WITH DISABILITIES

1426. Programs for children and youth with serious emotional disturbance.
 (a) Grants, contracts, and cooperative agreements to establish projects.
 (b) Grants to provide services.
 (c) Requirements of projects assisted.

SUBCHAPTER V—RESEARCH IN THE EDUCATION OF INDIVIDUALS WITH DISABILITIES

1443. Repealed.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1203a, 1206a, 2321, 2323, 2744, 2782, 2783, 2791, 3227, 3291, 3441, 4356 of this title; title 25 sections 2503, 2504; title 29 sections 721, 774, 2215; title 42 sections 300x-11, 6024, 9855d, 9862.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1400. Congressional statements and declarations

(a) Short title

This chapter may be cited as the "Individuals with Disabilities Education Act".

(b) Findings

The Congress finds that—

(1) there are more than eight million children with disabilities in the United States today;

[See main edition for text of (2)]

(3) more than half of the children with disabilities in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;

(4) one million of the children with disabilities in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

(5) there are many children with disabilities throughout the United States participating in regular school programs whose disabilities prevent them from having a successful educational experience because their disabilities are undetected;

[See main edition for text of (6)]

(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of children with disabilities;

(8) State and local educational agencies have a responsibility to provide education for all children with disabilities, but present financial resources are inadequate to meet the special educational needs of children with disabilities; and

(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of children with disabilities in order to assure equal protection of the law.

(c) Purpose

It is the purpose of this chapter to assure that all children with disabilities have available to them, within the time periods specified in section 1412(2)(B) of this title, a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist States and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities.

(As amended Pub. L. 101-476, title IX, § 901(a)(1), (b)(1)-(9), Oct. 30, 1990, 104 Stat. 1141, 1142.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original "this Act" and has been translated throughout this chapter as reading "this title", meaning title VI of Pub. L. 91-230, as amended, popularly known as the "Individuals with Disabilities Education Act", to reflect the probable intent of Congress.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-476, § 901(a)(1), substituted "Individuals with Disabilities Education Act" for "Education of the Handicapped Act".

Subsec. (b)(1), (3), (4). Pub. L. 101-476, § 901(b)(1)-(3), substituted "children with disabilities" for "handicapped children".

Subsec. (b)(5). Pub. L. 101-476, § 901(b)(4), (5), substituted "children with disabilities" for "handicapped children" and substituted "disabilities" for "handicaps" in two places.

Subsecs. (b)(7) to (9), (c). Pub. L. 101-476, § 901(b)(6)-(9), substituted "children with disabilities" for "handicapped children" wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SHORT TITLE OF 1990 AMENDMENT

Section 1(a) of Pub. L. 101-476 provided that: "This Act [see Tables for classification] may be cited as the 'Education of the Handicapped Act Amendments of 1990'."

REFERENCES TO EDUCATION OF THE HANDICAPPED ACT

Section 901(a)(3) of Pub. L. 101-476 provided that: "Any other Act and any regulation which refers to the Education of the Handicapped Act shall be considered to refer to the Individuals with Disabilities Education Act."

§ 1401. Definitions

(a) As used in this chapter—

(1) The term "children with disabilities" means children—

(A) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(B) who, by reason thereof need special education and related services.

[See main edition for text of (2) to (12)]

(13) The term "research and related purposes" means research, research training (including the payment of stipends and allowances), surveys, or demonstrations in the field of education of children with disabilities, or the dissemination of information derived therefrom, including (but without limitation) experimental schools.

[See main edition for text of (14)]

(15) The term "children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(16) The term "special education" means specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a child with a disability, including—

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education.

(17) The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic

recreation and social work services, and medical and counseling services,,¹ including rehabilitation counseling, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

[See main edition for text of (18)]

(19) The term "transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(20) The term "individualized education program" means a written statement for each child with a disability developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall include—

(A) a statement of the present levels of educational performance of such child,

(B) a statement of annual goals, including short-term instructional objectives,

(C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs,

(D) a statement of the needed transition services for students beginning no later than age 16 and annually thereafter (and, when determined appropriate for the individual, beginning at age 14 or younger), including, when appropriate, a statement of the interagency responsibilities or linkages (or both) before the student leaves the school setting,

(E) the projected date for initiation and anticipated duration of such services, and

(F) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

In the case where a participating agency, other than the educational agency, fails to

provide agreed upon services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives.

(21) The term "excess costs" means those costs which are in excess of the average annual per student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

(A) amounts received—

(i) under this subchapter,

(ii) under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2701 et seq.], or

(iii) under title VII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 3281 et seq.], and

(B) any State or local funds expended for programs that would qualify for assistance under such subchapter, chapter, or title.

(22) The term "native language" has the meaning given that term by section 703(a)(2) of the Bilingual Education Act.²

(23) The term "intermediate educational unit" means any public authority, other than a local educational agency, which is under the general supervision of a State educational agency, which is established by State law for the purpose of providing free public education on a regional basis, and which provides special education and related services to children with disabilities within that State.

(24)(A) The term "public or private non-profit agency or organization" includes an Indian tribe and the Bureau of Indian Affairs of the Department of the Interior (when acting on behalf of schools operated by the Bureau for children and students on Indian reservations) and tribally controlled schools funded by the Department of the Interior.

(B) The terms "Indian", "American Indian", and "Indian American" mean an individual who is a member of an Indian tribe.

(C) The term "Indian tribe" means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]).

(25) The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(26) The term "assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the needs of an individual with a disability, including a func-

¹ So in original.

² See References in Text note below.

tional evaluation of the individual in the individual's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(27) The term "underrepresented" means populations such as minorities, the poor, the limited English proficient, and individuals with disabilities.

(b) For purposes of subchapter III of this chapter, "youth with a disability" means any child with a disability (as defined in subsection (a)(1) of this section) who—

[See main edition for text of (1) and (2)]

(As amended Pub. L. 101-476, title I, § 101, title IX, § 901(b)(10)-(20), Oct. 30, 1990, 104 Stat. 1103, 1142, 1143.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(21), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 100-297, Apr. 28, 1988, 102 Stat. 140. Chapter 1 of title I and title VII of the Elementary and Secondary Education Act of 1965 are classified generally to division 1 (§ 2701 et seq.) of subchapter I and subchapter VII (§ 3281 et seq.), respectively, of chapter 47 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

Section 703(a)(2) of the Bilingual Education Act, referred to in subsec. (a)(22), is section 703(a)(2) of Pub. L. 89-10, title VII, as added by Pub. L. 95-561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2289, as amended, which was classified to section 3223(a)(2) of this title prior to the complete revision of Pub. L. 89-10 by Pub. L. 100-297, Apr. 28, 1988, 102 Stat. 140. For provisions defining "native language", see section 3283(a)(2) of this title.

The Alaska Native Claims Settlement Act, referred to in subsec. (a)(24)(C), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-476, § 901(b)(10), which directed substitution of "children with disabilities" for "handicapped children", could not be execut-

ed because "handicapped children" did not appear following general amendment by Pub. L. 101-476, § 101(a). See below.

Pub. L. 101-476, § 101(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'handicapped children' means mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children, or children with specific learning disabilities, who by reason thereof require special education and related services."

Subsec. (a)(13). Pub. L. 101-476, § 901(b)(11), substituted "children with disabilities" for "handicapped children".

Subsec. (a)(15). Pub. L. 101-476, § 901(b)(12), substituted "perceptual disabilities" for "perceptual handicaps" and "motor disabilities" for "motor handicaps".

Subsec. (a)(16). Pub. L. 101-476, § 901(b)(13), substituted "child with a disability" for "handicapped child".

Pub. L. 101-476, § 101(b), substituted "including—

"(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

"(B) instruction in physical education"

for "including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions".

Subsec. (a)(17). Pub. L. 101-476, § 901(b)(14), (15), substituted "child with a disability" for "handicapped child" and "disabling" for "handicapping".

Pub. L. 101-476, § 101(c), inserted "including therapeutic recreation and social work services," after "recreation," and ", including rehabilitation counseling," after "counseling services,".

Subsec. (a)(19). Pub. L. 101-476, § 101(d), added par. (19). Former par. (19) redesignated (20).

Subsec. (a)(20). Pub. L. 101-476, § 901(b)(18), (17), which directed the substitution of "child with a disability" for "handicapped child" and "children with disabilities" for "handicapped children" in par. (19), was executed by making the substitutions in par. (20) to reflect the probable intent of Congress and the intervening redesignation of par. (19) as (20) by Pub. L. 101-476, § 101(d). See below.

Pub. L. 101-476, § 101(d), (e), redesignated par. (19) as (20), added subpar. (D), redesignated former subpars. (D) and (E) as (E) and (F), respectively, and inserted after subpar. (F) "In the case where a participating agency, other than the educational agency, fails to provide agreed upon services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives." Former par. (20) redesignated (21).

Subsec. (a)(21), (22). Pub. L. 101-476, § 101(d), redesignated pars. (20) and (21) as (21) and (22), respectively. Former par. (22) redesignated (23).

Subsec. (a)(23). Pub. L. 101-476, § 901(b)(18), which directed the substitution of "children with disabilities" for "handicapped children" in par. (22), was executed by making the substitution in par. (23) to reflect the probable intent of Congress and the intervening redesignation of par. (22) as (23) by Pub. L. 101-476, § 101(d). See below.

Pub. L. 101-476, § 101(d), redesignated par. (22) as (23). Former par. (23) redesignated (24).

Subsec. (a)(24). Pub. L. 101-476, § 101(d), (f), redesignated par. (23) as (24) and inserted before period at end of subpar. (A) "and the Bureau of Indian Affairs of the Department of the Interior (when acting on behalf of schools operated by the Bureau for children and students on Indian reservations) and tribally controlled schools funded by the Department of the Interior".

Subsec. (a)(25) to (27). Pub. L. 101-476, § 101(g)-(i), added pars. (25) to (27).

Subsec. (b). Pub. L. 101-476, § 901(b)(19), (20), substituted "youth with a disability" for "handicapped

youth" and "child with a disability" for "handicapped child".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 18 of Pub. L. 98-199, as amended by Pub. L. 101-476, title IX, § 901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that:

[See main edition for text of (a)]

"(b)(1) To the extent that the amendments made by this Act to parts C, D, E, and G of the Individuals with Disabilities Education Act [subchapters III, IV, V and VII of this chapter] prohibit or limit the use of funds, such amendments shall apply only to funds obligated after the date of enactment of this Act [Dec. 2, 1983].

"(2) As determined necessary by the Secretary of Education for purposes of providing services under the Individuals with Disabilities Education Act [this chapter] pending the issuance of regulations implementing the amendments made by this Act, the Secretary shall provide financial assistance under parts C, D, E, and G of the Act as in effect on the day before the date of enactment of this Act until issuance of such regulations or March 1, 1984, whichever is earlier."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 238, 244, 1087ee, 1425 of this title; title 42 sections 1396n, 5117c, 9835.

§ 1402. Office of Special Education Programs

(a) Establishment; purposes

There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs which shall be the principal agency in the Department for administering and carrying out this chapter and other programs and activities concerning the education and training of individuals with disabilities.

[See main edition for text of (b)]

(As amended Pub. L. 101-476, title IX, § 901(b)(21), Oct. 30, 1990, 104 Stat. 1143.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-476 substituted "individuals with disabilities" for "the handicapped".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

REFERENCES IN OTHER LAWS TO OS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

DEPUTY COMMISSIONER AND ASSOCIATE DEPUTY COMMISSIONER OF EDUCATION AND OTHER ASSISTANTS; ADDITIONAL POSITIONS

Section 612(b)(1) of Pub. L. 93-380, as amended by Pub. L. 94-482, title V, § 501(a)(11), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 101-476, title IX, § 901(a)(3), Oct.

30, 1990, 104 Stat. 1142, provided that: "The positions created by subsection (b) of section 603 of the Individuals with Disabilities Education Act [subsec. (b) of this section] shall be in addition to the number of positions placed in the appropriate grades under section 5108 of title 5, United States Code and such positions shall be in addition to, and without prejudice against, the number of positions otherwise placed in the Office of Education [now Department of Education] under such section 5108 or under other law. Nothing in this section shall be deemed as limiting the Commissioner [now Secretary of Education] from assigning additional General Schedule positions in grades 16, 17, and 18 to the Bureau should he determine such additions to be necessary to operate programs for educating handicapped children authorized by this Act [see Short Title note for Pub. L. 93-380, set out under section 2701 of this title]."

[Provision effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93-380, set out as an Effective Date of 1974 Amendment note under section 244 of this title.]

§ 1403. Abrogation of State sovereign immunity

(a) State immunity abrogated

A State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this chapter.

(b) Availability of remedies

In a suit against a State for a violation of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public entity other than a State.

(c) Effective date

The provisions of subsections (a) and (b) of this section shall take effect with respect to violations that occur in whole or part after October 30, 1990.

(Pub. L. 91-230, title VI, § 604, as added Pub. L. 101-476, title I, § 103, Oct. 30, 1990, 104 Stat. 1106.)

PRIOR PROVISIONS

A prior section 1403, Pub. L. 91-230, title VI, § 604, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93-380, title VI, § 613, Aug. 21, 1974, 88 Stat. 580; Pub. L. 94-273, §§ 3(14), 13(2), Apr. 21, 1976, 90 Stat. 376, 378; Pub. L. 98-199, § 4, Dec. 2, 1983, 97 Stat. 1358, which established the National Advisory Committee on the Education of Handicapped Children and Youth, was repealed by Pub. L. 99-457, title IV, § 407, Oct. 8, 1986, 100 Stat. 1177.

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as an Effective Date of 1990 Amendment note under section 238 of this title.

§ 1405. Employment of individuals with disabilities

The Secretary shall assure that each recipient of assistance under this chapter shall make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this chapter.

(As amended Pub. L. 101-476, title IX, § 901(b)(22), (23), Oct. 30, 1990, 104 Stat. 1143.)

AMENDMENTS

1990—Pub. L. 101-476 substituted “individuals with disabilities” for “handicapped individuals” in section catchline and text.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1407. Regulation requirements

[See main edition for text of (a)]

(b) Lessening of procedural or substantive protections as in effect on July 20, 1983, prohibited

The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this chapter which would procedurally or substantively lessen the protections provided to children with disabilities under this chapter, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines,¹ attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

(As amended Pub. L. 101-476, title IX, § 901(b)(24), Oct. 30, 1990, 104 Stat. 1143.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-476 substituted “children with disabilities” for “handicapped children”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1409. Administrative provisions applicable to subchapters III through VII and section 1418

(a) Plan for implementation of authorized programs

The Secretary shall maintain a process for developing a program plan for the implementation of each of the programs authorized under section 1418 of this title and subchapters III through VII of this chapter. The plan shall include program goals, objectives, strategies, and priorities. In conducting the process, the Secretary shall involve individuals with disabilities, parents, professionals, and representatives of State and local educational agencies, private schools, institutions of higher education, and national organizations who have interest and expertise in the program.

(b) Needs of minority children and youth

In awarding grants, contracts, and cooperative agreements under subchapters III through VII of this chapter, the Secretary, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of infants, toddlers, children, and youth with disabilities from minority backgrounds.

(c) Transitions facing children with disabilities during years in school

In awarding grants, contracts, or cooperative agreements under subchapters III through VII of this chapter the Secretary, where appropriate, may require applicants to address the various transitions that a child with a disability may face throughout such child's years in school, including—

(1) the transition from medical care to special education for those children with disabilities, including chronic health impairments, who may require individualized health-related services to enable such children to participate in, or benefit from, special education;

(2) the transition between residential placement and community-based special education services; and

(3) the transition between a separate educational placement and the regular classroom setting.

(d) Program evaluations

The Secretary shall conduct directly, or by contract or cooperative agreement with appropriate entities, independent evaluations of the programs authorized under section 1418 of this title and under subchapters III through VII of this chapter, and may for such purpose use funds appropriated to carry out such provisions. The findings of the evaluators shall be utilized in the planning process under subsection (a) of this section for the purpose of improving the programs. The evaluations shall determine the degree to which the program is being conducted consistent with the program plan and meeting its goals and objectives. The Secretary shall submit to the appropriate committees of the Congress the results of the evaluations required by this subsection.

(e) Report on program plans and evaluations

The Secretary shall report on the program plans required in subsection (a) of this section and findings from the evaluations under subsection (d) of this section in the annual report to the Congress required under section 1418 of this title.

(f) Acquisition and dissemination of information

The Secretary shall develop effective procedures for acquiring and disseminating information derived from programs and projects funded under subchapters III through VII of this chapter, as well as information generated from studies conducted and data collected under section 1418 of this title.

(g) Dissemination of reports to appropriate networks

The Secretary shall, where appropriate, require recipients of all grants, contracts, and cooperative agreements under subchapters III through VII of this chapter to prepare reports describing their procedures, findings, and other relevant information in a form that will maximize the dissemination and use of such procedures, findings, and information. The Secretary shall require their delivery, as appropriate, to the Regional and Federal Resource Centers, the Clearinghouses, and the Technical Assistance to Parents Programs (TAPP) assisted

¹ So in original. Probably should be “timeliness.”

under subchapters III and IV of this chapter, as well as the National Diffusion Network, the ERIC Clearinghouse on the Handicapped and Gifted, and the Child and Adolescent Service Systems Program (CASSP) under the National Institute of Mental Health, appropriate parent and professional organizations, organizations representing individuals with disabilities, and such other networks as the Secretary may determine to be appropriate.

(h) Evaluation panels

(1) The Secretary shall convene, in accordance with paragraph (2), panels of experts who are competent, by virtue of their training or experience, to evaluate proposals under section 1418 of this title and subchapters III through VII of this chapter.

(2) Panels under paragraph (1) shall be composed of individuals with disabilities, parents of such individuals, individuals from the fields of special education, related services, and other relevant disciplines.

(3) The Secretary shall convene panels under paragraph (1) for any application that includes a total funding request exceeding \$60,000 and may convene or otherwise appoint panels for applications that include funding requests that are less than such amount.

(4) Panels under paragraph (1) shall include a majority of non-Federal members. Such non-Federal members shall be provided travel and per diem not to exceed the rate provided to other educational consultants used by the Department of Education and shall be provided consultant fees at such a rate.

(5) The Secretary may use funds available under section 1418 of this title and subchapters III through VII of this chapter to pay expenses and fees of non-Federal members of the panels.

(i) Site visits

The Secretary shall conduct at least 1 site visit for each grant, contract, and cooperative agreement receiving \$300,000 or more annually under subchapters III through VII of this chapter.

(j) Discretionary program findings

(1) With respect to the discretionary programs authorized by subchapters III through VII of this chapter, the Congress finds as follows:

(A)(i) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

(ii) America's racial profile is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Hispanics, 14.6 percent for African-Americans, and 40.1 percent for Asians and other ethnic groups.

(iii) By the year 2000, this Nation will have 260,000,000 people, one of every three of whom will be either African-American, Hispanic, or Asian-American.

(iv) Taken together as a group, it is a more frequent phenomenon for minorities to com-

prise the majority of public school students. Large city school populations are overwhelmingly minority, e.g., Miami, 71 percent; Philadelphia, 73 percent; Baltimore, 80 percent.

(v) Recruitment efforts within special education at the level of preservice, continuing education, and practice must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

(vi) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation. In the Nation's 2 largest school districts, limited-English students make up almost half of all students initially entering school at the kindergarten level. Studies have documented apparent discrepancies in the levels of referral and placement of limited-English proficient children in special education. The Department of Education has found that services provided to limited-English proficient students often do not respond primarily to the pupil's academic needs. These trends pose special challenges for special education in the referral, assessment, and services for our Nation's students from non-English language backgrounds.

(B)(i) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

(ii) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

(iii) Poor African-American children are 3.5 times more likely to be identified by their teacher as mentally retarded than their white counterpart.

(iv) Although African-Americans represent 12 percent of elementary and secondary enrollments, they constitute 28 percent of total enrollments in special education.

(v) The drop out rate is 68 percent higher for minorities than for whites.

(vi) More than 50 percent of minority students in large cities drop out of school.

(C)(i) The opportunity for full participation in awards for grants and contracts; boards of organizations receiving funds under this chapter; and peer review panels; and training of professionals in the area of special education by minority individuals, organizations, and historically Black colleges and universities is essential if we are to obtain greater success in the education of minority children with disabilities.

(ii) In 1989, of the 661,000 college and university professors, 4.6 percent were African-American and 3.1 percent were Hispanic. Of the 3,600,000 teachers, prekindergarten through high school, 9.4 percent were African-American and 3.9 percent were Hispanic.

(iii) Students from minority groups comprise more than 50 percent of K-12 public school enrollment in seven States yet minori-

ty enrollment in teacher training programs is less than 15 percent in all but six States.

(iv) As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

(v) Ten years ago, 12.5 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21.3 percent of the national population at that time and were clearly underrepresented then among employed teachers. Today, the elementary and secondary teaching force is 3 to 5 percent minority, while one-third of the students in public schools are minority children.

(vi) As recently as 1984-85, Historically Black Colleges and Universities (HBCUs) supplied nearly half of the African-American teachers in the Nation. However, in 1988, HBCUs received only 2 percent of the discretionary funds for special education and related services personnel training.

(vii) While African-American students constitute 28 percent of total enrollment in special education, only 11.2 percent of individuals enrolled in preservice training programs for special education are African-American.

(viii) In 1986-87, of the degrees conferred in education at the B.A., M.A., and Ph.D levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students.

(D) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the private sector that impede their full participation in the mainstream of society.

(2) The Congress further finds that these conditions can be greatly improved by providing opportunities for the full participation of minorities through the implementation of the following recommendations:

(A) Implementation of a policy to mobilize the Nation's resources to prepare minorities for careers in special education and related services.

(B) This policy should focus on—

(i) the recruitment of minorities into teaching; and

(ii) financially assisting HBCUs and other institutions of higher education (whose minority student enrollment is at least 25 percent) to prepare students for special education and related service careers.

(C)(i) The Secretary shall develop a plan for providing outreach services to the entities described in clause (ii) in order to increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under any of subchapters III through VII of this chapter.

(ii) The entities referred to in clause (i) are—

(I) Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 25 percent;

(II) eligible institutions as defined in section 1058 of this title;

(III) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

(IV) underrepresented populations.

(iii) For the purpose of implementing the plan required in clause (i), the Secretary shall, for each of the fiscal years 1991 through 1994, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out subchapters III through VII of this chapter.

(3) The Secretary shall exercise his/her utmost authority, resourcefulness, and diligence to meet the requirements of this subsection.

(4) Not later than January 31 of each year, starting with fiscal year 1991, the Secretary shall submit to Congress a final report on the progress toward meeting the goals of this subsection during the preceding fiscal year. The report shall include—

(i) a full explanation of any progress toward meeting the goals of this subsection; and

(ii) a plan to meet the goals, if necessary.

(Pub. L. 91-230, title VI, § 610, as added Pub. L. 101-476, title I, § 104, Oct. 30, 1990, 104 Stat. 1106.)

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as an Effective Date of 1990 Amendment note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1421, 1423, 1424, 1425, 1426, 1461 of this title.

SUBCHAPTER II—ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED CHILDREN

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1407, 1422, 1424, 1441, 1476, 1477, 2321, 2325, 2791, 2792, 2794, 2796, 4311, 4321, 4342, 4907 of this title; title 42 section 1396b.

§ 1411. Entitlements and allocations

(a) Formula for determining maximum State entitlement

(1) Except as provided in paragraph (3) and in section 1419 of this title, the maximum amount of the grant to which a State is entitled under this subchapter for any fiscal year shall be equal to—

(A) the number of children with disabilities aged 3-5, inclusive, in a State who are receiving special education and related services as determined under paragraph (3) if the State is eligible for a grant under section 1419 of this title and the number of children with disabilities aged 6-21, inclusive, in a State who are receiving special education and related services as so determined;

multiplied by—

[See main edition for text of (B)]

except that no State shall receive an amount which is less than the amount which such State received under this subchapter for the fiscal year ending September 30, 1977.

[See main edition for text of (2)]

(3) The number of children with disabilities receiving special education and related services in any fiscal year shall be equal to number of such children receiving special education and related services on December 1 of the fiscal year preceding the fiscal year for which the determination is made.

[See main edition for text of (4)]

(5)(A) In determining the allotment of each State under paragraph (1), the Secretary may not count—

(i) children with disabilities aged three to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 percent of the number of all children aged three to seventeen, inclusive, in such State and the State serves all children with disabilities aged three to five, inclusive, in the State pursuant to State law or practice or the order of any court,¹

(ii) children with disabilities aged five to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 percent of the number of all children aged five to seventeen, inclusive, in such State and the State does not serve all children with disabilities aged three to five, inclusive, in the State pursuant to State law or practice or the order of any court; and

(iii) children with disabilities who are counted under subpart 2 of part D of chapter 1 of title 1² of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2791 et seq.].

[See main edition for text of (B); (b)]

(c) Distribution and use of grant funds by States for fiscal years ending September 30, 1979, and thereafter

[See main edition for text of (1) to (3)]

(4) *[See main edition for text of (A)]*

(B) Whenever the provisions of subparagraph (A) apply, the State involved shall use such funds to assure the provision of a free appropriate education to children with disabilities residing in the area served by such local educational agency or such intermediate educational unit. The provisions of paragraph (2)(B) shall not apply to the use of such funds.

(d) Allocation of funds within States to local educational agencies and intermediate educational units

From the total amount of funds available to local educational agencies and intermediate educational units in any State under subsection (b)(1)(B) or subsection (c)(1)(B) of this section, as the case may be, each local educational

agency or intermediate educational unit shall be entitled to an amount which bears the same ratio to the total amount available under subsection (b)(1)(B) or subsection (c)(1)(B) of this section, as the case may be, as the number of children with disabilities aged three to twenty-one, inclusive, receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of children with disabilities aged three to twenty-one, inclusive, receiving special education and related services in all local educational agencies and intermediate educational units which apply to the State educational agency involved for funds under this subchapter.

[See main edition for text of (e)]

(f) Indian reservations

(1) The Secretary shall make payments to the Secretary of the Interior according to the need for assistance for the education of children with disabilities on reservations (A) served by elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) for whom services were provided through contract with an Indian tribe or organization prior to fiscal year 1989. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate amounts available to all States under this section for that fiscal year.

(2) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary an application which—

[See main edition for text of (A)]

(B) includes satisfactory assurance that all children with disabilities aged 3 to 5, inclusive, receive a free appropriate public education by or before the 1987-1988 school year,

[See main edition for text of (C) and (D)]

Section 1416 of this title shall apply to any such application.

(3) Before March 1, 1991, the Secretary of the Interior shall submit to the appropriate Committees of the Congress a plan for the provision of services under this chapter to all children with disabilities residing on reservations, whether or not such reservation is served by a B.I.A. funded school. Such plan shall provide for the coordination of services benefiting these children from whatever source, including Tribes, the State in which the child resides and entities of such State, the Indian Health Service, other B.I.A. divisions and other Federal agencies. In developing such a plan, the Secretary shall consult with all interested and involved parties. Such a plan may not be based upon a blanket assumption or interpretation that denies Federal or Interior responsibility for any group or class of children or settings, but shall be based upon the needs of the children and the system best suited for meeting those needs, and may involve the establishment of service agreements between the B.I.A. and other entities.

¹ So in original. The comma probably should be a semicolon.

² So in original. Probably should be title "I".

[See main edition for text of (g) and (h)]

(As amended Pub. L. 101-476, title II, § 201, title IX, § 901(b)(25)-(32), Oct. 30, 1990, 104 Stat. 1111, 1143.)

AMENDMENTS

1990—Subsec. (a)(1)(A), (3), (5)(A), Pub. L. 101-476, § 901(b)(25)-(29), substituted "children with disabilities" for "handicapped children" wherever appearing.

Subsecs. (c)(4)(B), (d), Pub. L. 101-476, § 901(b)(30), (31), substituted "children with disabilities" for "handicapped children" wherever appearing.

Subsec. (f)(1), Pub. L. 101-476, §§ 201(1), 901(b)(32), substituted "children with disabilities" for "handicapped children", inserted "(A)" after "reservations" and added cl. (B).

Subsec. (f)(2)(B), Pub. L. 101-476, § 901(b)(32), substituted "children with disabilities" for "handicapped children".

Subsec. (f)(3), Pub. L. 101-476, § 201(2), added par. (3).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1413, 1414, 1419 of this title.

8 1412. Eligibility requirements

In order to qualify for assistance under this subchapter in any fiscal year, a State shall demonstrate to the Secretary that the following conditions are met:

(1) The State has in effect a policy that assures all children with disabilities the right to a free appropriate public education.

(2) The State has developed a plan pursuant to section 1413(b) of this title in effect prior to November 29, 1975, and submitted not later than August 21, 1975, which will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that—

(A) there is established (i) a goal of providing full educational opportunity to all children with disabilities, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;

(B) a free appropriate public education will be available for all children with disabilities between the ages of three and eighteen within the State not later than September 1, 1978, and for all children with disabilities between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to children with disabilities aged three to five and aged eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State;

(C) all children residing in the State who are disabled, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

[See main edition for text of (D) and (E)]

(3) The State has established priorities for providing a free appropriate public education to all children with disabilities, which priorities shall meet the timetables set forth in clause (B) of paragraph (2) of this section, first with respect to handicapped children¹ who are not receiving an education, and second with respect to children with disabilities, within each disability category, with the most severe disabilities who are receiving an inadequate education, and has made adequate progress in meeting the timetables set forth in clause (B) of paragraph (2) of this section.

(4) Each local educational agency in the State will maintain records of the individualized education program for each child with a disability, and such program shall be established, reviewed, and revised as provided in section 1414(a)(5) of this title.

(5) The State has established (A) procedural safeguards as required by section 1415 of this title, (B) procedures to assure that, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, and (C) procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(6) The State educational agency shall be responsible for assuring that the requirements of this subchapter are carried out and that all educational programs for children with disabilities within the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for children with dis-

¹ So in original. Probably should be "children with disabilities".

abilities in the State educational agency and shall meet education standards of the State educational agency. This paragraph shall not be construed to limit the responsibility of agencies other than educational agencies in a State from providing or paying for some or all of the costs of a free appropriate public education to be provided children with disabilities in the State.

(7) The State shall assure that (A) in carrying out the requirements of this section procedures are established for consultation with individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities and parents or guardians of children with disabilities, and (B) there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to adoption of the policies, programs, and procedures required pursuant to the provisions of this section and section 1413 of this title.

(As amended Pub. L. 101-476, title IX, § 901(b)(33)-(46), (c), Oct. 30, 1990, 104 Stat. 1143, 1144, 1151.)

AMENDMENTS

1990—Pars. (1), (2)(A), (B). Pub. L. 101-476, § 901(b)(33), (34), substituted "children with disabilities" for "handicapped children" wherever appearing.

Par. (2)(C). Pub. L. 101-476, § 901(b)(36), (37), substituted "disabled" for "handicapped" and "disability" for "handicap".

Par. (3). Pub. L. 101-476, § 901(b)(38), (39), (c), substituted "children with disabilities," for "handicapped children," in two places and "disabilities" for "handicaps" and inserted "category" after "disability".

Par. (4). Pub. L. 101-476, § 901(b)(40), substituted "child with a disability" for "handicapped child".

Par. (5). Pub. L. 101-476, § 901(b)(41)-(43), substituted "children with disabilities" for "handicapped children" in three places, "disabled" for "handicapped", and "disability" for "handicap".

Par. (6). Pub. L. 101-476, § 901(b)(44), substituted "children with disabilities" for "handicapped children" in three places.

Par. (7). Pub. L. 101-476, § 901(b)(45), (46), substituted "children with disabilities" for "handicapped children" in two places and "individuals with disabilities" for "handicapped individuals".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 615(d) of Pub. L. 93-380, as amended by Pub. L. 101-476, title IX, § 901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: "The amendment made by subsections (a)(1) and (b) of this section [amending this section and section 1413 of this title] shall be effective in any fiscal year for which the aggregate of the amounts allotted to the States for that fiscal year for carrying out part B of the Individuals with Disabilities Education Act [this subchapter] is \$45,000,000 or more."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1400, 1411, 1413, 1414, 1416, 1418, 1419, 2328, 2468e of this title; title 20 sections 705m, 796d.

§ 1413. State plans

(a) Requisite features

Any State meeting the eligibility requirements set forth in section 1412 of this title and desiring to participate in the program under this subchapter shall submit to the Secretary, through its State educational agency, a State plan at such time, in such manner, and containing or accompanied by such information, as the Secretary deems necessary. Each such plan shall—

[See main edition for text of (1)]

(2) provide that programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 2791 et seq.] and section 2332(1)¹ of this title, under which there is specific authority for the provision of assistance for the education of children with disabilities, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all children with disabilities, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs;

(3) describe, consistent with the purposes of this chapter, a comprehensive system of personnel development that shall include—

(A) a description of the procedures and activities the State will undertake to ensure an adequate supply of qualified special education and related services personnel, including—

(i) the development and maintenance of a system for determining, on an annual basis—

(I) the number and type of personnel, including leadership personnel, that are employed in the provision of special education and related services, by area of specialization, including the number of such personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure; and

(II) the number and type of personnel, including leadership personnel, needed, and a projection of the numbers of such personnel that will be needed in five years, based on projections of individuals to be served, retirement and other leaving of personnel from the field, and other relevant factors;

(ii) the development and maintenance of a system for determining, on an annual basis, the institutions of higher education within the State that are preparing special education and related services personnel, including leadership personnel, by area of specialization, including—

¹ See References in Text note below.

(I) the numbers of students enrolled in such programs, and

(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year; and

(iii) the development, updating, and implementation of a plan that—

(I) will address current and projected special education and related services personnel needs, including the need for leadership personnel; and

(II) coordinates and facilitates efforts among State and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities; and

(B) a description of the procedures and activities the State will undertake to ensure that all personnel necessary to carry out this subchapter are appropriately and adequately prepared, including—

(i) a system for the continuing education of regular and special education and related services personnel;

(ii) procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and

(iii) procedures for adopting, where appropriate, promising practices, materials, and technology.²

(4) set forth policies and procedures to assure—

(A) that, to the extent consistent with the number and location of children with disabilities in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this subchapter by providing for such children special education and related services; and

(B) that—

(i) children with disabilities in private schools and facilities will be provided special education and related services (in conformance with an individualized education program as required by this subchapter) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this subchapter or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State; and

[See main edition for text of (ii), (5) to (8)]

(9) provide satisfactory assurance that Federal funds made available under under this subchapter—

[See main edition for text of (A)]

(B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this subchapter and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive in part the requirement of this subparagraph if the Secretary concurs with the evidence provided by the State;

[See main edition for text of (10)]

(11) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of children with disabilities (including evaluation of individualized education programs), in accordance with such criteria that the Secretary shall prescribe pursuant to section 1417 of this title;

(12) provide that the State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities, teachers, parents or guardians of children with disabilities, State and local education officials, and administrators of programs for children with disabilities, which—

(A) advises the State educational agency of unmet needs within the State in the education of children with disabilities,

(B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of children with disabilities and the procedures for distribution of funds under this subchapter, and

[See main edition for text of (C)]

(13) set forth policies and procedures for developing and implementing interagency agreements between the State educational agency and other appropriate State and local agencies to—

(A) define the financial responsibility of each agency for providing children and youth with disabilities with free appropriate public education, and

[See main edition for text of (B), (14)]

(b) Additional assurances

Whenever a State educational agency provides free appropriate public education for children with disabilities, or provides direct services to such children, such State educational agency shall include, as part of the State plan required by subsection (a) of this section, such additional assurances not specified in such subsection

² So in original. The period probably should be a semicolon.

(a) of this section as are contained in section 1414(a) of this title, except that funds available for the provision of such education or services may be expended without regard to the provisions relating to excess costs in section 1414(a) of this title.

[See main edition for text of (c)]

(d) Participation of children with disabilities in private schools; payment of Federal amount; determinations of Secretary; notice and hearing; judicial review; jurisdiction of court of appeals, petition, record, conclusiveness of findings, remand, review by Supreme Court

(1) If, on December 2, 1983, a State educational agency is prohibited by law from providing for the participation in special programs of children with disabilities enrolled in private elementary and secondary schools as required by subsection (a)(4) of this section, the Secretary shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a)(4) of this section.

(2)(A) When the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services an amount per child which may not exceed the Federal amount provided per child under this subchapter to all children with disabilities enrolled in the State for services for the fiscal year preceding the fiscal year for which the determination is made.

[See main edition for text of (B) and (C), (3)]

(e) Prohibition on reduction of assistance

This chapter shall not be construed to permit a State to reduce medical and other assistance available or to alter eligibility under titles V and XIX of the Social Security Act [42 U.S.C. 701 et seq., 1396 et seq.] with respect to the provision of a free appropriate public education for children with disabilities within the State.

(As amended Pub. L. 101-476, title II, § 202, title IX, § 901(b)(47)-(58), Oct. 30, 1990, 104 Stat. 1111, 1144.)

REFERENCES IN TEXT

Section 2332 of this title, referred to in subsec. (a)(2), was omitted in the general revision of subchapter II of chapter 44 by Pub. L. 101-392, title II, § 201, Sept. 25, 1990, 104 Stat. 776.

AMENDMENTS

1990—Subsec. (a)(2). Pub. L. 101-476, § 901(b)(47), substituted “children with disabilities” for “handicapped children” in two places.

Subsec. (a)(3). Pub. L. 101-476, § 202, amended par. (3) generally. Prior to amendment, par. (3) read as follows: “set forth, consistent with the purposes of this chapter, a description of programs and procedures for—

“(A) the development and implementation of a comprehensive system of personnel development, which shall include—

“(i) inservice training of general and special educational instructional and support personnel,

“(ii) detailed procedures to assure that all personnel necessary to carry out the purposes of this

chapter are appropriately and adequately prepared and trained, and

“(iii) effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and

“(B) adopting, where appropriate, promising educational practices and materials developed through such projects;”

Subsec. (a)(4), (9)(B), (11). Pub. L. 101-476, § 901(b)(48)-(51), substituted “children with disabilities” for “handicapped children” wherever appearing.

Subsec. (a)(12). Pub. L. 101-476, § 901(b)(52), (53), substituted “children with disabilities” for “handicapped children” in five places and “individuals with disabilities” for “handicapped individuals”.

Subsec. (a)(13)(A). Pub. L. 101-476, § 901(b)(54), substituted “children and youth with disabilities” for “handicapped children and youth”.

Subsecs. (b), (d)(1), (2)(A), (e). Pub. L. 101-476, § 901(b)(55)-(58), substituted “children with disabilities” for “handicapped children” wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1411, 1412, 1414, 1415, 1416, 1418, 1419, 1432 of this title.

§ 1414. Application

(a) **Requisite features**

A local educational agency or an intermediate educational unit which desires to receive payments under section 1411(d) of this title for any fiscal year shall submit an application to the appropriate State educational agency. Such application shall—

(1) provide satisfactory assurance that payments under this subchapter will be used for excess costs directly attributable to programs which—

(A) provide that all children residing within the jurisdiction of the local educational agency or the intermediate educational unit who are disabled, regardless of the severity of their disability, and are in need of special education and related services will be identified, located, and evaluated, and provide for the inclusion of a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving such education and services;

[See main edition for text of (B)]

(C) establish a goal of providing full educational opportunities to all children with disabilities, including—

[See main edition for text of (i)]

(ii) the provision of, and the establishment of priorities for providing, a free appropriate public education to all children with disabilities, first with respect to children with disabilities who are not receiving an education, and second with respect to children with disabilities, within each

disability, with the most severe disabilities who are receiving an inadequate education;

[See main edition for text of (iii) and (iv), (D) and (E)]

(2) provide satisfactory assurance that—

[See main edition for text of (A)]

(B) Federal funds expended by local educational agencies and intermediate educational units for programs under this subchapter—

(i) shall be used to pay only the excess costs directly attributable to the education of children with disabilities; and

(ii) shall be used to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of children with disabilities, and in no case to supplant such State and local funds; and

[See main edition for text of (C)]

(3) provide for—

(A) furnishing such information (which, in the case of reports relating to performance, is in accordance with specific performance criteria related to program objectives), as may be necessary to enable the State educational agency to perform its duties under this subchapter, including information relating to the educational achievement of children with disabilities participating in programs carried out under this subchapter; and

[See main edition for text of (B), (4)]

(5) provide assurances that the local educational agency or intermediate educational unit will establish or revise, whichever is appropriate, an individualized education program for each child with a disability at the beginning of each school year and will then review and, if appropriate, revise, its provisions periodically, but not less than annually;

[See main edition for text of (6) and (7); (b)]

(c) Consolidated applications

(1) A State educational agency may, for purposes of the consideration and approval of applications under this section, require local educational agencies to submit a consolidated application for payments if such State educational agency determines that any individual application submitted by any such local educational agency will be disapproved because such local educational agency is ineligible to receive payments because of the application of section 1411(c)(4)(A)(i) of this title or such local educational agency would be unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of children with disabilities.

[See main edition for text of (2)]

(d) Special education and related services provided directly by State educational agencies; regional or State centers

Whenever a State educational agency determines that a local educational agency—

[See main edition for text of (1) and (2)]

(3) has one or more children with disabilities who can best be served by a regional or State center designed to meet the needs of such children;

the State educational agency shall use the payments which would have been available to such local educational agency to provide special education and related services directly to children with disabilities residing in the area served by such local educational agency. The State educational agency may provide such education and services in such manner, and at such locations (including regional or State centers), as it considers appropriate, except that the manner in which such education and services are provided shall be consistent with the requirements of this subchapter.

(e) Reallocation of funds

Whenever a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by such agency with State and local funds otherwise available to such agency, the State educational agency may reallocate funds (or such portion of those funds as may not be required to provide such education and services) made available to such agency, pursuant to section 1411(d) of this title, to such other local educational agencies within the State as are not adequately providing special education and related services to all children with disabilities residing in the areas served by such other local educational agencies.

(f) Programs using State or local funds

Notwithstanding the provisions of subsection (a)(2)(B)(ii) of this section, any local educational agency which is required to carry out any program for the education of children with disabilities pursuant to a State law shall be entitled to receive payments under section 1411(d) of this title for use in carrying out such program, except that such payments may not be used to reduce the level of expenditures for such program made by such local educational agency from State or local funds below the level of such expenditures for the fiscal year prior to the fiscal year for which such local educational agency seeks such payments.

(As amended Pub. L. 101-476, title IX, § 901(b)(59)-(70), Oct. 30, 1990, 104 Stat. 1144, 1145.)

AMENDMENTS

1990—Subsec. (a)(1)(A). Pub. L. 101-476, § 901(b)(59), (60), substituted “disabled” and “disability” for “handicapped” and “handicap”, respectively.

Subsec. (a)(1)(C). Pub. L. 101-476, § 901(b)(61)-(63), in introductory provisions substituted “children with disabilities” for “handicapped children” and in cl. (ii) substituted “children with disabilities” for “handi-

capped children" in three places and "disabilities" for "handicaps".

Subsec. (a)(2)(B)(i), (ii), (3). Pub. L. 101-476, § 901(b)(64), (65), substituted "children with disabilities" for "handicapped children".

Subsec. (a)(5). Pub. L. 101-476, § 901(b)(66), substituted "child with a disability" for "handicapped child".

Subsecs. (c)(1), (d) to (f). Pub. L. 101-476, § 901(b)(67)-(70), substituted "children with disabilities" for "handicapped children" wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1401, 1411, 1412, 1413, 1418, 1420, 2325, 2328, 2341, 2423, 2468e of this title; title 29 sections 795m, 796d.

§ 1415. Procedural safeguards

(a) Establishment and maintenance

Any State educational agency, any local educational agency, and any intermediate educational unit which receives assistance under this subchapter shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that children with disabilities and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

(h) Required procedures; hearing

(1) The procedures required by this section shall include, but shall not be limited to—

(A) an opportunity for the parents or guardian of a child with a disability to examine all relevant records with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

[See main edition for text of (B) to (E), (2); (c)]

(d) Enumeration of rights accorded parties to hearings

Any party to any hearing conducted pursuant to subsections (b) and (c) of this section shall be accorded—

(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities,

[See main edition for text of (2) to (4)]

(e) Civil action; jurisdiction

[See main edition for text of (1) to (3)]

(4) [See main edition for text of (A)]

(B) In any action or proceeding brought under this subsection, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents or guardian of a child or youth with a disability who is the prevailing party.

[See main edition for text of (C) to (G)]

(f) Effect on other laws

Nothing in this chapter shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973 [29 U.S.C. 790 et seq.], or other Federal statutes protecting the rights of children and youth with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this subchapter, the procedures under subsections (b)(2) and (c) of this section shall be exhausted to the same extent as would be required had the action been brought under this subchapter.

(As amended Pub. L. 101-476, title IX, § 901(b)(71)-(75), Oct. 30, 1990, 104 Stat. 1145.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-476, § 901(b)(71), substituted "children with disabilities" for "handicapped children".

Subsec. (b)(1)(A). Pub. L. 101-476, § 901(b)(72), substituted "child with a disability" for "handicapped child".

Subsec. (d)(1). Pub. L. 101-476, § 901(b)(73), substituted "children with disabilities" for "handicapped children".

Subsec. (e)(4)(B). Pub. L. 101-476, § 901(b)(74), substituted "child or youth with a disability" for "handicapped child or youth".

Subsec. (f). Pub. L. 101-476, § 901(b)(75), substituted "children and youth with disabilities" for "handicapped children and youth".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 5 of Pub. L. 99-372, as amended by Pub. L. 101-476, title IX, § 901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: "The amendment made by section 2 [amending this section] shall apply with respect to actions or proceedings brought under section 615(e) of the Individuals with Disabilities Education Act [subsec. (e) of this section] after July 3, 1984, and actions or proceedings brought prior to July 4, 1984, under such section which were pending on July 4, 1984."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1414, 2328 of this title.

§ 1416. Withholding of payments

(a) Failure to comply with this subchapter; limitations; public notice

Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or intermediate educational unit affected by any failure described in clause (2)), finds—

[See main edition for text of (1)]

(2) that in the administration of the State plan there is a failure to comply with any provision of this subchapter or with any requirements set forth in the application of a local educational agency or intermediate educational unit approved by the State educa-

tional agency pursuant to the State plan, the Secretary—

[See main edition for text of (A)]

(B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 1413(a)(2) of this title within the Secretary's jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of children with disabilities.

If the Secretary withholds further payments under clause (A) or clause (B) the Secretary may determine that such withholding will be limited to programs or projects under the State plan, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this subchapter to specified local educational agencies or intermediate educational units affected by the failure. Until the Secretary is satisfied that there is no longer any failure to comply with the provisions of this subchapter, as specified in clause (1) or clause (2), no further payments shall be made to the State under this subchapter or under the Federal programs specified in section 1413(a)(2) of this title within the Secretary's jurisdiction to the extent that funds under such programs are available for the provision of assistance for the education of children with disabilities, or payments by the State educational agency under this subchapter shall be limited to local educational agencies and intermediate educational units whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, local educational agency, or intermediate educational unit in receipt of a notice pursuant to the first sentence of this subsection shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency or unit.

[See main edition for text of (b)]

(As amended Pub. L. 101-476, title IX, § 901(b)(76), Oct. 30, 1990, 104 Stat. 1145.)

AMENDMENTS

1990—Subsec. (a)(2). Pub. L. 101-476, which directed the substitution of "children with disabilities" for "handicapped children" each place such term appears in subpar. (B), was executed by making the substitution in subpar. (B) and in concluding provisions to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1417. Administration

(a) Duties of Secretary

(1) In carrying out the Secretary's duties under this subchapter, the Secretary shall—

(A) cooperate with, and furnish all technical assistance necessary, directly or by grant or contract, to the States in matters relating

to the education of children with disabilities and the execution of the provisions of this subchapter;

[See main edition for text of (B) and (C)]

(D) assure that each State shall, within one year after November 29, 1975 and every year thereafter, provide certification of the actual number of children with disabilities receiving special education and related services in such State.

[See main edition for text of (2); (b) to (d)]

(As amended Pub. L. 101-476, title IX, § 901(b)(77), (78), Oct. 30, 1990, 104 Stat. 1145.)

REFERENCES IN TEXT

Section 1418 of this title, referred to in subsec. (d), was amended generally by Pub. L. 101-476, title II, § 203, Oct. 30, 1990, 104 Stat. 1112; Pub. L. 99-457, title IV, § 406, Oct. 8, 1986, 100 Stat. 1174; and Pub. L. 98-199, § 8, Dec. 2, 1983, 97 Stat. 1360, and, as so amended, the subject matter of subsecs. (b), (c), and (d) of that section is generally contained in subsecs. (b) and (g).

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-476 substituted "children with disabilities" for "handicapped children" in subpars. (A) and (D).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1412, 1413, 1414, 1415, 1483 of this title.

§ 1418. Evaluation and program information

(a) Duties of Secretary

The Secretary shall, directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, analyses, and evaluations—

(1) to assess progress in the implementation of this chapter;

(2) to assess the impact and effectiveness of State and local efforts, and efforts by the Secretary of the Interior, to provide—

(A) free appropriate public education to children and youth with disabilities; and

(B) early intervention services to infants and toddlers with disabilities; and

(3) to provide—

(A) Congress with information relevant to policymaking; and

(B) State, local, and Federal agencies, including the Department of the Interior, with information relevant to program management, administration, delivery, and effectiveness with respect to such education and early intervention services.

(b) Collection of data

(1) In carrying out subsection (a) of this section, the Secretary, on at least an annual basis (except as provided in subparagraph (E)), shall obtain data concerning programs and projects

assisted under this chapter and under other Federal laws relating to infants, toddlers, children, and youth with disabilities, and such additional information, from State and local educational agencies, the Secretary of the Interior, and other appropriate sources, including designated lead agencies under subchapter VIII of this chapter (except that during fiscal year 1992 such entities may not under this subsection be required to provide data regarding traumatic brain injury or autism), including—

(A) the number of infants, toddlers, children, and youth with disabilities in each State receiving a free appropriate public education or early intervention services—

(i) in age groups 0-2 and 3-5, and

(ii) in age groups 6-11, 12-17, and 18-21, by disability category;

(B) the number of children and youth with disabilities in each State, by disability category, who—

(i) are participating in regular educational programs (consistent with the requirements of section¹ 1412(5)(B) and 1414(a)(1)(C)(iv) of this title);

(ii) are in separate classes, separate schools or facilities, or public or private residential facilities; or

(iii) have been otherwise removed from the regular education environment;

(C) the number of children and youth with disabilities exiting the educational system each year through program completion or otherwise, by disability category, for each year of age from age 14 through 21;

(D) the number and type of personnel that are employed in the provision of—

(i) special education and related services to children and youth with disabilities, by disability category served; and

(ii) early intervention services to infants and toddlers with disabilities; and

(E) at least every three years, using the data collection method the Secretary finds most appropriate, a description of the services expected to be needed, by disability category, for youth with disabilities in age groups 12-17 and 18-21 who have left the educational system.

(2) Beginning with fiscal year 1993, the Secretary shall obtain and report data from the States under section 1413(a)(3)(A) of this title, including data addressing current and projected special education and related services needs, and data on the number of personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure, and other data for the purpose of meeting the requirements of this subsection pertaining to special education and related services personnel.

(3) The Secretary shall provide, directly or by grant, contract, or cooperative agreement, technical assistance to State agencies providing the data described in paragraphs (1) and (2) to achieve accurate and comparable information.

(c) Studies and investigations under grants, contracts, or cooperative agreements

(1) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, public agencies, and private nonprofit organizations, and, when necessary because of the unique nature of the study, private-for-profit organizations, for the purpose of conducting studies, analyses, syntheses, and investigations for improving program management, administration, delivery, and effectiveness necessary to provide full educational opportunities and early interventions for all children with disabilities from birth through age 21. Such studies and investigations shall gather information necessary for program and system improvements including—

(A) developing effective, appropriate criteria and procedures to identify, evaluate, and serve infants, toddlers, children, and youth with disabilities from minority backgrounds for purposes of program eligibility, program planning, delivery of services, program placement, and parental involvement;

(B) planning and developing effective early intervention services, special education, and related services to meet the complex and changing needs of infants, toddlers, children, and youth with disabilities;

(C) developing and implementing a comprehensive system of personnel development needed to provide qualified personnel in sufficient number to deliver special education, related services, and early intervention services;

(D) developing the capacity to implement practices having the potential to integrate children with disabilities, to the maximum extent appropriate, with children who are not disabled;

(E) effectively allocating and using human and fiscal resources for providing early intervention, special education, and related services;

(F) strengthening programs and services to improve the progress of children and youth with disabilities while in special education, and to effect a successful transition when such children and youth leave special education;

(G) achieving interagency coordination to maximize resource utilization and continuity in services provided to infants, toddlers, children, and youth with disabilities;

(H) strengthening parent-school communication and coordination to improve the effectiveness of planning and delivery of interventions and instruction, thereby enhancing development and educational progress; and

(I) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice.

(2)(A) The studies and investigations authorized under this subsection may be conducted through surveys, interviews, case studies, program implementation studies, secondary data analyses and syntheses, and other appropriate methodologies.

¹ So in original. Probably should be "sections".

(B) The studies and investigations conducted under this subsection shall address the information needs of State and local educational agencies for improving program management, administration, delivery, and effectiveness.

(3) The Secretary shall develop and implement a process for the on-going identification of national program information needed for improving the management, administration, delivery, and effectiveness of programs and services provided under this chapter. The process shall identify implementation issues, desired improvements, and information needed by State and local agencies to achieve such improvements, and shall be conducted in cooperation with State educational agencies that can ensure broad-based statewide input from each cooperating State. The Secretary shall publish for public comment in the Federal Register every 3 years a program information plan describing such information needs. Such program information plan shall be used to determine the priorities for, and activities carried out under, this subsection to produce, organize, and increase utilization of program information. Such program information plan shall be included in the annual report submitted under this section every 3 years.

(4) In providing funds under this subsection, the Secretary shall require recipients to prepare their procedures, findings, and other relevant information in a form that will maximize their dissemination and use, especially through dissemination networks and mechanisms authorized by this chapter, and in a form for inclusion in the annual report to Congress authorized under subsection (g) of this section.

(d) Cooperative agreements with State agencies

(1) The Secretary shall enter into cooperative agreements with State educational agencies and other State agencies to carry out studies to assess the impact and effectiveness of programs, policies, and procedures assisted under this chapter.

(2) The agreements referred to in paragraph (1) shall—

(A) provide for the payment of not more than 60 percent of the total cost of studies conducted by a participating State agency to assess the impact and effectiveness of this chapter; and

(B) be developed in consultation with the State Advisory Panel established under section 1413(a)(12) of this title, local educational agencies, and others involved in, or concerned with, the education of children and youth with disabilities and the provision of early intervention services to infants and toddlers with disabilities.

(3) The Secretary shall provide technical assistance to participating State agencies in the implementation of the study design, analysis, and reporting procedures.

(e) Studies to assess progress of program

(1) The Secretary shall by grant, contract, or cooperative agreement, provide for special studies to assess progress in the implementation of this chapter, and to assess the impact and effectiveness of State and local efforts and ef-

forts by the Secretary of the Interior to provide free appropriate public education to children and youth with disabilities, and early intervention services to infants and toddlers with disabilities. Reports from such studies shall include recommendations for improving programs and services to such individuals. The Secretary shall, beginning in fiscal year 1993 and for every third year thereafter, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed priorities for review and comment.

(2) In selecting priorities for fiscal years 1991 through 1994, the Secretary may give first consideration to—

(A) completing a longitudinal study of a sample of students with disabilities, examining—

(i) the full range of disabling conditions;

(ii) the educational progress of students with disabilities while in special education; and

(iii) the occupational, educational, and independent living status of students with disabilities after graduating from secondary school or otherwise leaving special education.

(B) conducting pursuant to this subsection a nationally representative study focusing on the types, number, and intensity of related services provided to children with disabilities by disability category.

(C) conducting pursuant to this subsection a study that examines the degree of disparity among States with regard to the placement in various educational settings of children and youth with similar disabilities, especially those with mental retardation, and, to the extent that such disparity exists, the factors that lead such children and youth to be educated in significantly different educational settings.

(D) conducting pursuant to this subsection a study that examines the factors that have contributed to the decline in the number of children classified as mentally retarded since the implementation of this chapter, and examines the current disparity among States in the percentage of children so classified.

(E) conducting pursuant to this subsection a study that examines the extent to which out-of-community residential programs are used for children and youth who are seriously emotionally disturbed, the factors that influence the selection of such placements, the degree to which such individuals transition back to education programs in their communities, and the factors that facilitate or impede such transition.

(F) conducting pursuant to this subsection a study that examines (i) the factors that influence the referral and placement decisions and types of placements, by disability category and English language proficiency, of minority children relative to other children, (ii) the extent to which these children are placed in regular education environments, (iii) the extent to which the parents of these children are involved in placement decisions and in the development and implementation of the indi-

vidualized education program and the results of such participation, and (iv) the type of support provided to parents of these children that enable these parents to understand and participate in the educational process.

(f) Integration of information

The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, other public agencies, and private nonprofit organizations to support activities that organize, synthesize, interpret, and integrate information obtained under subsections (c) and (e) of this section with relevant knowledge obtained from other sources. Such activities shall include the selection and design of content, formats, and means for communicating such information effectively to specific or general audiences, in order to promote the use of such information in improving program administration and management, and service delivery and effectiveness.

(g) Annual report

(1)(A) The Secretary is authorized to conduct activities, directly or by grant, contract, or cooperative agreement, to prepare an annual report on the progress being made toward the provision of—

- (i) a free appropriate public education to all children and youth with disabilities; and
- (ii) early intervention services for infants and toddlers with disabilities.

(B) Not later than 120 days after the close of each fiscal year, the Secretary shall transmit a copy of the report authorized under subparagraph (A) to the appropriate committees of each House of Congress. The annual report shall be published and disseminated in sufficient quantities to the education and disability communities and to other interested parties.

(2) The Secretary shall include in each annual report under paragraph (1)—

- (A) a compilation and analysis of data gathered under subsection (b) of this section and under subchapter VIII of this chapter; and
- (B) a description of findings and determinations resulting from monitoring reviews of State implementation of this subchapter.

(3) In the annual report under paragraph (1) for fiscal year 1991 (which is published in 1992) and for every third year thereafter, the Secretary shall include in the annual report—

- (A) an index of all current projects funded under subchapters III through VII of this chapter; and
- (B) data reported under sections 1422 and 1434 of this title.

(4) The Secretary shall include in each annual report under paragraph (1) the results of research and related activities conducted under subchapter V of this chapter that the Secretary determines are relevant to the effective implementation of this chapter.

(5) The Secretary shall, in consultation with the National Council on Disability and the Bureau of Indian Affairs Advisory Committee for Exceptional Children, include a description of the status of early intervention services for

infants and toddlers with disabilities from birth through age 2, and special education and related services to children with disabilities from 3 through 5 years of age (including those receiving services through Head Start, developmental disabilities programs, crippled children's services, mental health/mental retardation agencies, and State child-development centers and private agencies under contract with local schools).

(h) Authorization of appropriations

There are authorized to be appropriated \$12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 through 1994 to carry out the purposes of this section and not more than 30 percent may be used to carry out the purposes of subsection (e) of this section.

(As amended Pub. L. 101-476, title II, § 203, Oct. 30, 1990, 104 Stat. 1112.)

AMENDMENTS

1990—Pub. L. 101-476, in amending section generally, made the following changes: in section catchline, inserted "and program information" after "Evaluation"; in text, substituted provisions relating to infants, toddlers, etc., with disabilities for provisions relating to handicapped infants, toddlers, etc.; in subsec. (b), redesignated existing provisions as par. (1) and added pars. (2) and (3); in subsec. (c), substituted provisions relating to studies of means of providing full educational opportunities for children with disabilities for provisions relating to study of need for improvements in Elementary and Secondary Education Amendments of 1970; in subsec. (d), struck out former par. (4), which related to dissemination of study results by Secretary; in subsec. (e), substituted provisions relating to studies to assess progress of programs and need for improvements in Elementary and Secondary Education Amendments of 1970 for provisions relating to longitudinal study and study of State and local expenditures on educational services for handicapped students; added subsec. (f); redesignated former subsec. (f) as (g), and in par. (3) substituted provisions relating to annual report for fiscal year 1991 and for every third year thereafter for provisions relating to annual report for fiscal year 1985 and for every third year thereafter, and in par. (4) substituted provisions relating to subchapter V of this chapter for provisions relating to special sections in fiscal year 1988 annual report; redesignated former subsec. (g) as (h), and substituted provisions authorizing appropriations for fiscal years 1991 through 1994 for provisions authorizing appropriations for fiscal years 1987 through 1989.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1409, 1413, 1417, 1421, 1422, 1425, 1431, 1433, 1434, 1441, 2791 of this title; title 29 section 795m; title 42 section 6022.

§ 1419. Pre-school grants

(a) Grants for fiscal years 1987 through 1989; amount of grants

(1) For fiscal years 1987 through 1989 (or fiscal year 1990 if the Secretary makes a grant under this paragraph for such fiscal year) the

Secretary shall make a grant to any State which—

[See main edition for text of (A) and (B)]

(C) provides special education and related services to children with disabilities aged three to five, inclusive.

(2)(A) For fiscal year 1987 the amount of a grant to a State under paragraph (1) may not exceed—

(i) \$300 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 1411(a)(3) of this title, or

(ii) if the amount appropriated under subsection (e) of this section exceeds the product of \$300 and the total number of children with disabilities aged three to five, inclusive, who received special education and related services as determined under section 1411(a)(3) of this title—

(I) \$300 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 1411(a)(3) of this title, plus

(II) an amount equal to the portion of the appropriation available after allocating funds to all States under subclause (I) (the excess appropriation) divided by the estimated increase, from the preceding fiscal year, in the number of children with disabilities aged three to five, inclusive, who will be receiving special education and related services in all States multiplied by the estimated increase in the number of such children in such State.

[See main edition for text of (B) and (C)]

(D) If the Secretary makes a grant under paragraph (1) for fiscal year 1990, the amount of a grant to a State under such paragraph may not exceed \$1,000 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 1411(a)(3) of this title.

[See main edition for text of (E)]

(F)(i) The amount of a grant under subparagraph (A), (B), or (C) to any State for a fiscal year may not exceed \$3,800 per estimated child with a disability aged three to five, inclusive, who will be receiving or child with a disability, age three to five, inclusive, who is receiving special education and related services in such State.

[See main edition for text of (ii), (3)]

(b) Grants for fiscal year 1990 and thereafter; amount of grants

(1) For fiscal year 1990 (or fiscal year 1991 if required by paragraph (2)) and fiscal years thereafter the Secretary shall make a grant to any State which—

[See main edition for text of (A)]

(B) has a State plan approved under section 1413 of this title which includes policies and

procedures that assure the availability under the State law and practice of such State of a free appropriate public education for all children with disabilities aged three to five, inclusive.

[See main edition for text of (2)]

(3) The amount of any grant to any State under paragraph (1) for any fiscal year may not exceed \$1,000 for each child with a disability in such State aged three to five, inclusive.

[See main edition for text of (4)]

(c) Distribution by State of funds

(1) For fiscal year 1987, a State which receives a grant under subsection (a)(1) of this section shall—

(A) distribute at least 70 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only children with disabilities aged three to five, inclusive, shall be considered,

(B) use not more than 25 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 1423(b) of this title in effect through fiscal year 1987 and for direct and support services for children with disabilities, and

[See main edition for text of (C)]

(2) For fiscal years beginning after fiscal year 1987, a State which receives a grant under subsection (a)(1) or (b)(1) of this section shall—

(A) distribute at least 75 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only children with disabilities aged three to five, inclusive, shall be considered,

(B) use not more than 20 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 1423(b) of this title in effect through fiscal year 1987 and for direct and support services for children with disabilities, and

[See main edition for text of (C)]

(3) From the amount of funds available to local educational agencies and intermediate educational units in any State under this section, each local educational agency or intermediate educational unit shall be entitled to—

(A) an amount which bears the same ratio to the amount available under subsection (a)(2)(A)(i) of this section or subsection (a)(2)(A)(ii)(I) of this section, as the case may be, as the number of children with disabilities aged three to five, inclusive, who received special education and related services as determined under section 1411(a)(3) of this title in such local educational agency or intermediate educational unit bears to the aggregate number of children with disabilities aged

three to five, inclusive, who received special education and related services in all local educational agencies and intermediate educational units in the State entitled to funds under this section, and

(B) to the extent funds are available under subsection (a)(2)(A)(ii)(II) of this section, an amount which bears the same ratio to the amount of such funds as the estimated number of additional children with disabilities aged three to five, inclusive, who will be receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of such children in all local educational agencies and intermediate educational units in the State entitled to funds under this section.

[See main edition for text of (d) to (f)]

(As amended Pub. L. 101-476, title IX, § 901(b)(79)-(93), Oct. 30, 1990, 104 Stat. 1145, 1146.)

AMENDMENTS

1990—Subsec. (a)(1)(C). Pub. L. 101-476, § 901(b)(79), substituted "children with disabilities" for "handicapped children".

Subsec. (a)(2)(A)(i). Pub. L. 101-476, § 901(b)(80), substituted "child with a disability" for "handicapped child".

Subsec. (a)(2)(A)(ii). Pub. L. 101-476, § 901(b)(81)-(83), substituted in introductory provisions and in subcl. (II) "children with disabilities" for "handicapped children" and in subcl. (I) "child with a disability" for "handicapped child".

Subsec. (a)(2)(D), (F)(i). Pub. L. 101-476, § 901(b)(84), (85), substituted "child with a disability" for "handicapped child" wherever appearing.

Subsec. (b). Pub. L. 101-476, § 901(b)(86), (87), substituted "children with disabilities" for "handicapped children" in par. (1)(B) and "child with a disability" for "handicapped child" in par. (3).

Subsec. (c). Pub. L. 101-476, § 901(b)(88)-(93), substituted "children with disabilities" for "handicapped children" in pars. (1)(A), (B), (2)(A), (B), and (3)(B) and in two places in par. (3)(A).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

PRESCHOOL GRANTS

Section 110 of Pub. L. 100-630, as amended by Pub. L. 101-476, title IX, § 901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: "The provisions of section 300.300(b)(3) of title 34, Code of Federal Regulations, shall not apply with respect to children aged 3 through 5, inclusive, in any State for any fiscal year for which the State receives a grant under section 619(a)(1) of the Individuals with Disabilities Education Act [20 U.S.C. 1419(a)(1)]."

SUBCHAPTER III—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF INDIVIDUALS WITH DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1401, 1408, 1409, 1418 of this title.

§ 1421. Regional resource and Federal centers

(a) Establishment; functions

The Secretary may make grants to, or enter into contracts or cooperative agreements with,

institutions of higher education, public agencies, private nonprofit organizations, State educational agencies, or combinations of such agencies or institutions (which combinations may include one or more local educational agencies) within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional resource centers that focus on special education and related services and early intervention services. Each regional resource center shall provide consultation, technical assistance, and training, as requested, to State educational agencies and through such State educational agencies to local educational agencies and to other appropriate public agencies providing special education and related services and early intervention services. The services provided by a regional resource center shall be consistent with the priority needs identified by the States served by the center. Each regional resource center established or operated under this section shall—

(1) assist in identifying and solving persistent problems in providing quality special education and related services for children and youth with disabilities and early intervention services to infants and toddlers with disabilities and their families,

(2) assist in developing, identifying, and replicating successful programs and practices which will improve special education and related services to children and youth with disabilities and their families and early intervention services to infants and toddlers with disabilities and their families,

(3) gather and disseminate information to all State educational agencies within the region and coordinate activities with other centers assisted under this subsection and other relevant programs and projects conducted under this subchapter and subchapters IV through VII of this chapter and by the Department of Education,

(4) assist in the improvement of information dissemination to and training activities for professionals and parents of infants, toddlers, children, and youth with disabilities, and

[See main edition for text of (5)]

(b) Considerations governing approval of application

In determining whether to approve an application for a project under subsection (a) of this section, the Secretary shall utilize criteria for setting criteria that are consistent with the needs identified by States within the region served by such center, consistent with requirements established by the Secretary under subsection (f) of this section, and, to the extent appropriate, consistent with requirements under section 1409 of this title, and shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to fulfill the responsibilities under subsection (a) of this section.

[See main edition for text of (c)]

(d) Coordinating technical assistance center

The Secretary may establish one coordinating technical assistance center focusing on national priorities established by the Secretary to assist the regional resource centers in the delivery of technical assistance, consistent with such national priorities. Such coordinating technical assistance center is authorized to—

(1) provide information to, and training for, agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this subchapter and subchapters IV through VII of this chapter, and shall make such information available to the regional resource centers on request;

(2) give priority to providing technical assistance concerning the education of children with disabilities from minority backgrounds;

(3) exchange information with, and, where appropriate, cooperate with, other centers addressing the needs of children with disabilities from minority backgrounds; and

(4) provide assistance to State educational agencies, through the regional resource centers, for the training of hearing officers.

[See main edition for text of (e)]

(f) Development of operation guidelines and criteria

(1) The Secretary shall develop guidelines and criteria for the operation of Regional and Federal Resource Centers. In developing such criteria and guidelines, the Secretary shall establish a panel representing the Office of Special Education Programs staff, State special education directors, representatives of disability advocates, and, when appropriate, consult with the regional resource center directors.

(2) Such guidelines and criteria shall include—

(A) a description of how the Federal and Regional Resource Centers Program will be administered by the Secretary;

(B) a description of the geographic region each Center is expected to serve;

(C) a description of the role of a Center in terms of expected leadership and dissemination efforts;

(D) a description of expected relationships with State agencies, research and demonstration centers, and with other entities deemed necessary;

(E) a description of how a Center will be evaluated; and

(F) other guidelines and criteria deemed necessary.

(3) The Secretary shall publish in the Federal Register by July 1, 1991, for review and comment, proposed and (then following such review and comment) final guidelines developed by the panel.

(As amended Pub. L. 101-476, title III, § 301, title IX, § 901(b)(95)-(99), Oct. 30, 1990, 104 Stat. 1117, 1146.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-476, § 301(a)(1)-(3), in introductory provisions inserted "that focus on special

education and related services and early intervention services" after "regional resource centers", "as requested," after "training", and "special education and related services and" after "agencies providing", and struck out "and the findings of the Secretary in monitoring reports prepared by the Secretary under section 1417 of this title" after "served by the center".

Subsec. (a)(1), (2). Pub. L. 101-476, § 901(b)(95)-(98), substituted "children and youth with disabilities" and "infants and toddlers with disabilities" for "handicapped children and youth" and "handicapped infants and toddlers", respectively.

Subsec. (a)(3). Pub. L. 101-476, § 301(a)(4), substituted "relevant programs and projects conducted under this subchapter and subchapters IV through VII of this chapter and by" for "relevant projects conducted by".

Subsec. (a)(4). Pub. L. 101-476, § 901(b)(99), substituted "infants, toddlers, children, and youth with disabilities" for "handicapped infants, toddlers, children, and youth".

Subsec. (b). Pub. L. 101-476, § 301(b), inserted provisions relating to criteria consistent with needs identified by States, with requirements established by Secretary under subsec. (f) of this section, and with requirements of section 1409 of this title.

Subsec. (d). Pub. L. 101-476, § 301(c), inserted "Such coordinating technical assistance center is authorized to—" and added pars. (1) to (4).

Subsec. (f). Pub. L. 101-476, § 301(d), added subsec. (f).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427 of this title.

§ 1422. Services for deaf-blind children and youth

(a) Grant and contract authority; types and scope of programs; governing considerations

(1) The Secretary is authorized to make grants to, or to enter into cooperative agreements or contracts with, public or nonprofit private agencies, institutions, or organizations to assist State educational agencies¹ local educational agencies, and designated lead agencies under subchapter VIII of this chapter to—

(A) assure deaf-blind infants, toddlers, children and youth provision of special education, early intervention, and related services as well as vocational and transitional services; and

(B) make available to deaf-blind youth (who are in the process of transitioning into adult services) programs, services, and supports to facilitate such transition, including assistance related to independent living and competitive employment.

(2) For purposes of this section, the term "deaf-blind", with respect to children and youth, means having auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that they cannot be appropriately educated in special education programs solely for children and youth with hearing impairments, visual impairments, or

¹ So in original. Probably should be followed by a comma.

severe disabilities, without supplementary assistance to address their educational needs due to these dual, concurrent disabilities.

(3)(A) A grant, cooperative agreement, or contract may be made under paragraph (1)(A) only for programs providing—

(i) technical assistance to agencies, institutions, or organizations providing educational or early intervention services to deaf-blind infants, toddlers, children, or youth;

(ii) preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind infants, toddlers, children, or youth;

(iii) replication of successful innovative approaches to providing educational, early intervention, or related services to deaf-blind infants, toddlers, children, and youth;

(iv) pilot projects that are designed to—

(I) expand local educational agency capabilities by providing services to deaf-blind children and youth that supplement services already provided to children and youth through State and local resources; and

(II) encourage eventual assumption of funding responsibility by State and local authorities;

(v) the development, improvement, or demonstration of new or existing methods, approaches, or techniques that contribute to the adjustment and education of deaf-blind infants, toddlers, children, and youth; or

(vi) facilitation of parental involvement in the education of their deaf-blind infants, toddlers, children, and youth.

(B) The programs described in subparagraph (A) may include—

(i) the diagnosis and educational evaluation of infants, toddlers, children, and youth who are likely to be diagnosed as deaf-blind;

(ii) programs of adjustment, education, and orientation for deaf-blind infants, toddlers, children, and youth; and

(iii) consultative, counseling, and training services for the families of deaf-blind infants, toddlers, children, and youth.

(4) A grant, cooperative agreement, or contract pursuant to paragraph (1)(B) may be made only for programs providing (A) technical assistance to agencies, institutions, and organizations that are preparing deaf-blind adolescents for adult placements, or that are preparing to receive deaf-blind young adults into adult living and work environments, or that serve, or propose to serve, deaf-blind individuals; (B) training or inservice training to paraprofessionals or professionals serving, or preparing to serve, such individuals; and (C) assistance in the development or replication of successful innovative approaches to providing rehabilitative, supervised, semisupervised, or independent living programs.

(5) In carrying out this subsection, the Secretary is authorized to enter into a number of grants or cooperative agreements to establish and support single and multi-State centers for the provision of technical assistance and pilot supplementary services, for the purposes of program development and expansion, for chil-

dren and youth with deaf-blindness and their families.

[See main edition for text of (b)]

(c) Annual report to Secretary; examination of numbers and services and revision of numbers; annual report to Congress: summary of data

(1) Programs supported under this section shall report annually to the Secretary on (A) the numbers of deaf-blind children and youth served by age, severity, sex, and nature of deaf-blindness; (B) the number of paraprofessionals, professionals, and family members directly served by each activity; (C) the types of services provided and the setting in which the services are provided; and (D) student outcomes, where appropriate.

[See main edition for text of (2) and (3)]

(d) National clearinghouse for children and youth with deaf-blindness

The Secretary shall make a grant, or enter into a contract or cooperative agreement, for a national clearinghouse for children and youth with deaf-blindness—

(1) to identify, coordinate, and disseminate information on deaf-blindness, emphasizing information concerning effective practices in working with deaf-blind infants, toddlers, children, and youth;

(2) to interact with educators, professional groups, and parents to identify areas for programming, materials development, training, and expansion of specific services;

(3) to maintain a computerized data base on local, regional, and national resources; and

(4) to respond to information requests from professionals, parents, and members of the community.

(e) Country-wide availability of assistance

In carrying out this section, the Secretary shall take into consideration the availability and quality of existing services for deaf-blind infants, toddlers, children, and youth in the country, and, to the extent practicable, ensure that all parts of the country have an opportunity to receive assistance under this section.

(f) Grants to, or contracts and cooperative agreements with, appropriate organizations and agencies

The Secretary may make grants to, or enter into contracts or cooperative agreements with organizations or public or nonprofit private agencies, as determined by the Secretary to be appropriate, to address the needs of children and youth with deaf-blindness, for—

(1) research to identify and meet the full range of special needs of such children and youth; and

(2) the development and demonstration of new, or improvements in existing methods, approaches, or techniques that would contribute to the adjustment and education of children and youth with deaf-blindness.

(As amended Pub. L. 101-476, title III, § 302, Oct. 30, 1990, 104 Stat. 1118.)

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-476, § 302(a)(1)(A), in introductory provisions inserted "local educational agencies, and designated lead agencies under subchapter VIII of this chapter".

Subsec. (a)(1)(A). Pub. L. 101-476, § 302(a)(1)(B), inserted provisions relating to infants and toddlers and provisions relating to early intervention.

Subsec. (a)(1)(B). Pub. L. 101-476, § 302(a)(1)(C), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "make available to deaf-blind youth, upon attaining the age of twenty-two, programs and services to facilitate their transition from educational to other services."

Subsec. (a)(2). Pub. L. 101-476, § 301(a)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 101-476, § 302(a)(2), (3), redesignated par. (2) as (3) and amended it generally. Prior to amendment, par. (3) read as follows: "A grant, cooperative agreement, or contract pursuant to paragraph (1)(A) may be made only for programs providing (A) technical assistance to agencies, institutions, or organizations providing educational services to deaf-blind children or youth; (B) preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind children or youth; (C) replication of successful innovative approaches to providing educational or related services to deaf-blind children and youth; and (D) facilitation of parental involvement in the education of their deaf-blind children and youth. Such programs may include—

"(i) the diagnosis and educational evaluation of children and youth at risk of being certified deaf-blind;

"(ii) programs of adjustment, education, and orientation for deaf-blind children and youth; and

"(iii) consultative, counseling, and training services for the families of deaf-blind children and youth."

Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 101-476, § 302(a)(2), (4), redesignated par. (5) as (4) and in subpar. (A) substituted "technical assistance to agencies, institutions, and organizations that are preparing deaf-blind adolescents for adult placements, or that are preparing to receive deaf-blind young adults into adult living and work environments, or that serve, or propose to serve, deaf-blind individuals" for "technical assistance to agencies, institutions, and organizations serving, or proposing to serve, deaf-blind individuals who have attained age twenty-two years" and in subpar. (C) inserted "supervised," after "rehabilitative,". Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 101-476, § 302(a)(2), (5), redesignated par. (4) as (5) and amended it generally. Prior to amendment, par. (5) read as follows: "In carrying out this subsection, the Secretary shall take into consideration the need for a center for deaf-blind children and youth in light of the general availability and quality of existing services for such children and youth in the part of the country involved."

Subsec. (c)(1). Pub. L. 101-476, § 302(b), in cl. (A) inserted "sex," after "severity", in cl. (C) inserted "and the setting in which the services are provided" after "services provided", and added cl. (D).

Subsec. (d). Pub. L. 101-476, § 302(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The Secretary shall disseminate materials and information concerning effective practices in working with deaf-blind children and youth."

Subsec. (e). Pub. L. 101-476, § 302(d), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public or nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for severely handicapped children and youth, including deaf-blind children and youth."

Subsec. (f). Pub. L. 101-476, § 302(e), substituted "with organizations or public or nonprofit private agencies, as determined by the Secretary to be appropriate, to address the needs of children and youth with deaf-blindness, for—

"(1) research to identify and meet the full range of special needs of such children and youth; and

"(2) the development and demonstration of new, or improvements in existing methods, approaches, or techniques that would contribute to the adjustment and education of children and youth with deaf-blindness"

for "with the entities under section 1424(a) of this title for the purposes in such section".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1423. Early education for children with disabilities

(a) Contracts, grants, and cooperative agreements; purpose; coordination with community programs; national dispersion in urban and rural areas; Federal share; non-Federal contributions; arrangements with Indian tribes

(1) The Secretary may arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations, for the development and operation of experimental, demonstration, and outreach preschool and early intervention programs for children with disabilities which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special needs of these children. Such programs shall include activities and services designed to—

(A) facilitate the intellectual, emotional, physical, mental, social, speech or other communication mode and,¹ language development, and self-help skills of such children,

(B) provide family education and include a parent or their representative of such child, as well as encourage the participation of the parents of such children in the development and operation of any such program,

(C) acquaint the community to be served by any such program with the special needs and potentialities of such children,

(D) offer training about exemplary models and practices, including interdisciplinary models and practices, to State and local personnel who provide services to children with disabilities from birth through age 8 and to the parents of such children,

(E) support the adoption of exemplary models and practices in States and local communities, including the involvement of adult role models with disabilities at all levels of the program,

(F) facilitate and improve the early identification of infants and toddlers with disabilities or those infants and toddlers at risk of having developmental disabilities,

(G) facilitate the transition of infants with disabilities or infants at risk of having developmental delays, from medical care to early intervention services, and the transition from

¹ So in original.

early intervention services to preschool special education or regular education services (especially where the lead agency for early intervention programs under subchapter VIII of this chapter is not the State educational agency),

(H) promote the use of assistive technology devices and assistive technology services, where appropriate, to enhance the development of infants and toddlers with disabilities, and

(I) increase the understanding of, and address, the early intervention and preschool needs of children exposed prenatally to maternal substance abuse.

[See main edition for text of (2) to (4)]

(b) Technical assistance development system

The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of a technical assistance development system to assist entities operating experimental, demonstration, and outreach programs and to assist State agencies to expand and improve services provided to children with disabilities. This technical assistance development system shall provide assistance to parents of and advocates for infants, toddlers, and children with disabilities, as well as direct service and administrative personnel involved with such children. Information from the system should be aggressively disseminated through established information networks and other mechanisms to ensure both an impact and benefits at the community level. The Secretary shall ensure that the technical assistance provided under this subsection includes assistance to part H [subchapter VIII] State agencies on procedures for use by primary referral sources in referring a child to the appropriate agency within the system for evaluation, assessment, or service.

(c) Early childhood research institutes

The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of early childhood research institutes to carry on sustained research to generate and disseminate new information on preschool and early intervention for children with disabilities and their families. Such institutes shall disseminate this information in the manner prescribed in section 1409(g) of this title.

(d) Grants or contracts with organizations to identify needs of children with disabilities and for training of personnel

The Secretary may make grants to, or enter into contracts or cooperative agreements under this section with, such organizations or institutions, as are determined by the Secretary to be appropriate, for research to identify and meet the full range of special needs of children with disabilities and for training of personnel for programs specifically designed for children with disabilities, including programs to integrate children with disabilities into regular preschool programs.

[See main edition for text of (e)]

(f) "Children with disabilities" defined

For purposes of this section the term "children with disabilities" includes children from birth through eight years of age, including infants and toddlers with disabilities.

(g) Organization, integration, and presentation of developed knowledge

The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit private organizations to synthesize the knowledge developed under this section and organize, integrate, and present such knowledge so it can be incorporated and imparted to parents, professionals, and others providing or preparing to provide preschool or early intervention services and to persons designing preschool or early intervention programs.

(As amended Pub. L. 101-476, title III, § 303, title IX, § 901(b)(100)-(106), Oct. 30, 1990, 104 Stat. 1121, 1146, 1147.)

AMENDMENTS

1990—Pub. L. 101-476, § 901(b)(100), substituted "children with disabilities" for "handicapped children" in section catchline.

Subsec. (a)(1). Pub. L. 101-476, §§ 303(a)(1), 901(b)(101), substituted in introductory provisions "children with disabilities" for "handicapped children" and "needs of these children" for "problems of such children".

Subsec. (a)(1)(A). Pub. L. 101-476, § 303(a)(2), inserted "or other communication mode and" after "speech".

Subsec. (a)(1)(B). Pub. L. 101-476, § 303(a)(3), inserted "provide family education and include a parent or their representative of such child, as well as" before "encourage".

Subsec. (a)(1)(C). Pub. L. 101-476, § 303(a)(4), substituted "special needs" for "problems".

Subsec. (a)(1)(D). Pub. L. 101-476, §§ 303(a)(5), 901(b)(102), inserted ", including interdisciplinary models and practices," after "practices", substituted "children with disabilities" for "handicapped children", and inserted "and to the parents of such children" after "age 8".

Subsec. (a)(1)(E). Pub. L. 101-476, § 303(a)(6), inserted before period at end ", including the involvement of adult role models with disabilities at all levels of the program".

Subsec. (a)(1)(F) to (I). Pub. L. 101-476, § 303(a)(7), added subpars. (F) to (I).

Subsec. (b). Pub. L. 101-476, §§ 303(b), 901(b)(103), substituted "children with disabilities" for "handicapped children" and inserted at end "This technical assistance development system shall provide assistance to parents of and advocates for infants, toddlers, and children with disabilities, as well as direct service and administrative personnel involved with such children. Information from the system should be aggressively disseminated through established information networks and other mechanisms to ensure both an impact and benefits at the community level. The Secretary shall ensure that the technical assistance provided under this subsection includes assistance to part H State agencies on procedures for use by primary referral sources in referring a child to the appropriate agency within the system for evaluation, assessment, or service."

Subsec. (c). Pub. L. 101-476, §§ 303(c), 901(b)(104), substituted "children with disabilities" for "handicapped children" and inserted at end "Such institutes"

shall disseminate this information in the manner prescribed in section 1409(g) of this title."

Subsec. (d). Pub. L. 101-476, §§ 303(d), 901(b)(105), substituted "children with disabilities" for "handicapped children" in two places and inserted before period at end ", including programs to integrate children with disabilities into regular preschool programs".

Subsec. (f). Pub. L. 101-476, §§ 303(e), 901(b)(106), substituted "children with disabilities" for "handicapped children" and inserted before period at end ", including infants and toddlers with disabilities".

Subsec. (g). Pub. L. 101-476, § 303(f); added subsec. (g).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1419, 1427 of this title.

§ 1424. Programs for children with severe disabilities

(a) Grant and contract authority

The Secretary may make grants to, or enter into contracts or cooperative agreements with, appropriate public agencies and nonprofit organizations to address the special education, related services, early intervention, and integration needs of infants, toddlers, children, and youth with severe disabilities through—

(1) research to identify and meet the full range of special education, related services, and early intervention needs, including transportation to and from school of such children and youth with disabilities,

(2) the development or demonstration of new, or improvements in existing, methods, approaches, or techniques which would contribute to the adjustment and education of such children and youth with disabilities,

(3) training of special and regular education, related services, and early intervention personnel for programs specifically designed for such infants, toddlers, children and youth, including training of regular teachers, instructors, and administrators in strategies (the goal of which is to serve infants, toddlers, children, and youth with disabilities) that include integrated settings for educating such children along side their nondisabled peers,

(4) dissemination of materials and information about practices found effective in working with such children and youth by utilizing existing networks as prescribed in section 1409(g) of this title¹ and

(5) statewide projects, in conjunction with the State's plan under subchapter II of this chapter, to improve the quality of special education and related services for children and youth with severe disabilities, and to change the delivery of those services from segregated to integrated environments.

(b) Extended school year demonstration programs

The Secretary is authorized to make grants to, or enter into contracts or cooperative agree-

ments with, public or private nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for infants, toddlers, children, and youth with severe disabilities.

(c) Coordination of activities with similar activities under other provisions

In making grants and entering into contracts and cooperative agreements under subsection (a) of this section, the Secretary shall ensure that the activities funded under such grants, contracts, or cooperative agreements will be coordinated with similar activities funded from grants and contracts under other sections of this chapter.

(d) National geographic dispersion of programs in urban and rural areas

To the extent feasible, programs authorized by subsection (a) of this section shall be geographically dispersed throughout the Nation in urban and rural areas.

(e) Priority programs

In awarding such grants and contracts under this section, the Secretary shall include a priority on programs that increase the likelihood that these children and youth will be educated with their nondisabled peers.

(As amended Pub. L. 101-476, title III, § 304, title IX, § 901(b)(107)-(110), Oct. 30, 1990, 104 Stat. 1122, 1147.)

AMENDMENTS

1990—Pub. L. 101-476, §§ 304(a), 901(b)(107), amended section catchline identically, substituting "children with severe disabilities" for "severely handicapped children".

Subsec. (a). Pub. L. 101-476, § 901(b)(108), which directed the substitution of "children and youth with severe disabilities" for "severely handicapped children and youth", could not be executed because "severely handicapped children and youth" did not appear following the general amendment of introductory provisions by Pub. L. 101-476, § 304(b)(1). See below.

Pub. L. 101-476, § 304(b)(1), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: "The Secretary may make grants to, or enter into contracts or cooperative agreements with, such organizations or institutions, as are determined by the Secretary to be appropriate, to address the needs of severely handicapped children and youth, for—".

Subsec. (a)(1). Pub. L. 101-476, §§ 304(b)(2), 901(b)(109), substituted "special education, related services, and early intervention needs, including transportation to and from school of such children and youth with disabilities" for "special needs of such handicapped children and youth".

Subsec. (a)(2). Pub. L. 101-476, § 901(b)(110), substituted "children and youth with disabilities" for "handicapped children and youth".

Subsec. (a)(3). Pub. L. 101-476, § 304(b)(3), substituted "training of special and regular education, related services, and early intervention personnel for programs specifically designed for such infants, toddlers, children and youth, including training of regular teachers, instructors, and administrators in strategies (the goal of which is to serve infants, toddlers, children, and youth with disabilities) that include integrated settings for educating such children along side their nondisabled peers," for "training of personnel

¹ So in original. Probably should be followed by a comma.

for programs specifically designed for such children and youth, and".

Subsec. (a)(4). Pub. L. 101-476, § 304(b)(4), inserted provisions relating to utilization of existing networks under section 1409(g) of this title.

Subsec. (a)(5). Pub. L. 101-476, § 304(b)(5), added par. (5).

Subsecs. (b) to (d). Pub. L. 101-476, § 304(b), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (e). Pub. L. 101-476, § 304(c), added subsec. (e).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427 of this title.

§ 1424a. Postsecondary education

(a)(1) The Secretary may make grants to, or enter into contracts with, State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for individuals with disabilities. Such model programs may include joint projects that coordinate with special education and transition services.

(2) In making grants or contracts on a competitive basis under paragraph (1), the Secretary shall give priority consideration to 4 regional centers for the deaf and to model programs for individuals with disabling conditions other than deafness—

(A) for developing and adapting programs of postsecondary, vocational, technical, continuing, or adult education to meet the special needs of individuals with disabilities.

(B) for programs that coordinate, facilitate, and encourage education of individuals with disabilities with their nondisabled peers;¹ and

(C) for outreach activities that include the provision of technical assistance to strengthen efforts in the development, operation, and design of model programs that are adapted to the special needs of individuals with disabilities.

(3) Persons operating programs for persons with disabilities under a grant or contract under paragraph (1) must coordinate their efforts with and disseminate information about their activities to the clearinghouse on postsecondary programs established under section 1433(b)² of this title.

[See main edition for text of (4) and (5)]

(6) Of the sums made available for programs under paragraph (1), not less than \$4,000,000 shall first be available for the 4 regional centers for the deaf.

(b) For purposes of subsection (a) of this section, the term "individuals with disabilities" means individuals—

(1) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(2) who, by reason thereof, need special education and related services.

(As amended Pub. L. 101-476, title III, § 305, title IX, § 901(b)(111)-(118), Oct. 30, 1990, 104 Stat. 1123, 1147.)

REFERENCES IN TEXT

Section 1433 of this title, referred to in subsec. (a)(3), was amended generally by Pub. L. 101-476, title IV, § 403, Oct. 30, 1990, 104 Stat. 1133, and, as so amended, provisions of subsec. (b) relating to a clearinghouse on postsecondary education for individuals with disabilities are contained in subsec. (c).

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-476, §§ 305(a)(1), 901(b)(111), substituted "individuals with disabilities" for "handicapped individuals" and inserted at end "Such model programs may include joint projects that coordinate with special education and transition services."

Subsec. (a)(2). Pub. L. 101-476, § 901(b)(112), substituted "disabling" for "handicapping".

Subsec. (a)(2)(A). Pub. L. 101-476, § 901(b)(113), substituted "individuals with disabilities" for "handicapped individuals".

Subsec. (a)(2)(B). Pub. L. 101-476, § 901(b)(114), (115), substituted "individuals with disabilities" and "nondisabled" for "handicapped individuals" and "nonhandicapped", respectively.

Subsec. (a)(2)(C). Pub. L. 101-476, § 305(a)(2), added subpar. (C).

Subsec. (a)(3). Pub. L. 101-476, § 901(b)(116), substituted "persons with disabilities" for "handicapped persons".

Subsec. (a)(6). Pub. L. 101-476, § 305(a)(3), substituted "\$4,000,000" for "\$2,000,000".

Subsec. (b). Pub. L. 101-476, § 901(b)(117), (118), which directed the substitution of "individuals with disabilities" and "visually disabled" for "handicapped individuals" and "visually handicapped", respectively, could not be executed because those terms did not appear following the general amendment by Pub. L. 101-476, § 305(b). See below.

Pub. L. 101-476, § 305(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "For the purposes of subsection (a) of this section the term 'handicapped individuals' means individuals who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired individuals, or individuals with specific learning disabilities who by reason thereof require special education and related services."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

¹ So in original. The semicolon probably should be a comma.

² See References in Text note below.

§ 1425. Secondary education and transitional services for children and youth with disabilities

- (a) Grant and contract authority; statement of purposes; national geographic dispersion in urban and rural areas

The Secretary may make grants to, or enter into contracts with, institutions of higher education, State educational agencies, local educational agencies, or other appropriate public and private nonprofit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act [29 U.S.C. 1501 et seq.]) to—

- (1) strengthen and coordinate special education and related services for youth with disabilities currently in school or who recently left school to assist them in the transition to postsecondary education, vocational training, competitive employment (including supported employment), continuing education, independent and community living, or adult services,

[See main edition for text of (2)]

- (3) stimulate the improvement of the vocational and life skills of students with disabilities to enable them to be better prepared for transition to adult life and services.

To the extent feasible, such programs shall be geographically dispersed throughout the Nation in urban and rural areas.

- (b) Description of specific projects

Projects assisted under subsection (a) of this section may include—

- (1) developing strategies and techniques for transition to independent living, vocational training, vocational rehabilitation, postsecondary education, and competitive employment (including supported employment) for youth with disabilities,

- (2) establishing demonstration models for services, programs, and individualized education programs, which emphasize vocational training, independent living, transitional services, and placement for youth with disabilities,

- (3) conducting demographic studies which provide information on the numbers, age levels, types of disabling conditions, and services required for youth with disabilities in need of transitional programs,

- (4) specially designed vocational programs to increase the potential for competitive employment for youth with disabilities,

[See main edition for text of (5)]

- (6) initiating cooperative models among educational agencies and adult service agencies, including vocational rehabilitation, mental health, mental retardation, and public employment, and employers, which facilitate the planning and developing of transitional services for youth with disabilities to postsecondary education, vocational training, employment, continuing education, and adult services,

- (7) developing appropriate procedures for evaluating vocational training, placement,

and transitional services for youth with disabilities,

- (8) conducting studies which provide information on the numbers, age levels, types of disabling conditions and reasons why some youth with disabilities remain to complete school programs while others drop out,

- (9) developing curriculum and instructional techniques in special education and related services that will improve the acquisition of skills by students with disabilities necessary for transition to adult life and services,

- (10) specially designed or adapted physical education and therapeutic recreation programs to facilitate the full participation of youths with disabilities in community programs, and

- (11) developing and disseminating exemplary programs and practices that meet the unique needs of students who utilize assistive technology devices and assistive technology services as such students make the transition to postsecondary education, vocational training, competitive employment (including supported employment), and continuing education or adult services.

[See main edition for text of (c)]

- (d) Applications for assistance; contents

Applications for assistance under subsection (a) of this section other than for the purpose of conducting studies or evaluations shall—

[See main edition for text of (1)]

- (2) describe the procedures that will be used for coordinating services among agencies for which youth with disabilities are or will be eligible, and

- (3) provide for the direct participation of students with disabilities and the parents of students with disabilities in the planning, development, and implementation of such projects.

- (e) Five-year grants to develop systems to provide transition services

(1) The Secretary shall make one-time, 5-year grants, on a competitive basis, to States in which the State vocational rehabilitation agency and State educational agency submit a joint application to develop, implement, and improve systems to provide transition services for youth with disabilities from age 14 through the age they exit school.

(2) In the case of a State whose vocational rehabilitation agency does not participate regarding a joint application described in paragraph (1), the Secretary may make a grant under such paragraph to the State if a joint application for the grant is submitted by the State educational agency and one other State agency that provides transition services to individuals who are leaving programs under this chapter.

(3) States that receive grants shall use grant funds to:

- (A) Increase the availability, access, and quality of transition assistance through the development and improvement of policies, procedures, systems, and other mechanisms

for youth with disabilities and their families as such youth prepare for and enter adult life.

(B) Improve the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from "student" to "adult".

(C) Improve working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the Job Training Partnership Act (JTPA) [29 U.S.C. 1501 et seq.], and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities.

(D) Create an incentive for accessing and using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

(4)(A) In order to receive funding under this subsection, a State vocational rehabilitation agency and State educational agency shall describe in their application how they will use the first year, if necessary, to plan how to implement transition services, the second through fourth years to develop and implement transition services, and the fifth year to evaluate transition services. The application shall describe how the grant funds will be used during the planning period and phased out during the evaluation period to ensure the continuation of transition services. Such applications shall also include—

(i) a description of the current availability, access, and quality of transition services for eligible youth and a description of how, over 5 years, the State will improve and expand the availability, access, and quality of transition services for youth with disabilities and their families as such youth prepare for and enter adult life;

(ii) a description of how the State will improve and increase the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from "student" to "adult";

(iii) a description of how the State will improve and increase working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the JTPA, and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities; and

(iv) a description of how the State will use grant funds as an incentive for accessing and

using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

(B) The Secretary shall give preference to those applications that, in addition to clearly addressing the requirements under subparagraph (A), describe how the State will—

(i) target resources to school settings, such as providing access to rehabilitation counselors for students with disabilities who are in school settings;

(ii) target a substantial amount of grant funds, received under this subsection, to case management, program evaluation and documentation of, and dissemination of information about, transition services;

(iii) provide incentives for interagency and private sector resource pooling and otherwise investing in transition services, especially in the form of cooperative agreements, particularly with PICS authorized by the JTPA and local branches of State employment agencies;

(iv) provide for early, ongoing information and training for those involved with or who could be involved with transition services—professionals, parents, youth with disabilities, including self-advocacy training for such youth, and advocates for such youth as well as PICS authorized by the JTPA and local branches of State employment agencies;

(v) provide for the early and direct involvement of all relevant parties, including PICS authorized by the JTPA and local branches of State employment agencies, in operating and planning improvements in transition services, and the early and direct involvement of all relevant parties in planning and implementing transition services for individual youth;

(vi) provide access to training for eligible youth that matches labor market needs in their communities;

(vii) integrate transition services with relevant opportunities in communities, including those sponsored by PICS authorized by the JTPA and local employment agencies;

(viii) use a transition services evaluation plan that is outcome oriented and that focuses on individual youth-focused benefits; and

(ix) ensure that, when appropriate and no later than age 22, eligible youth who participate in transition services under this program would be served as appropriate in the State section 110 and/or title VI, part C program authorized under the Rehabilitation Act of 1973.

(f) Development or demonstration of new or improved methods, approaches, or techniques; demonstration models of assistive technology devices and services; evaluation of transition services

(1) The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with, such organizations or institutions as are determined by the Secretary to be appropriate for the development or demonstration of new or improvements in existing methods, approaches, or techniques which will contribute to the adjustment and education of

children and youth with disabilities and the dissemination of materials and information concerning practices found effective in working with such children and youth. Such organizations and institutions shall disseminate such materials and information as prescribed under section 1409(g) of this title.

(2) The Secretary shall fund one or more demonstration models designed to establish appropriate methods of providing, or continuing to provide, assistive technology devices and services to secondary school students as they make the transition to vocational rehabilitation, employment, postsecondary education, or adult services. Such demonstration models shall include, as appropriate—

(A) cooperative agreements with the Rehabilitation Services Administration and/or State vocational rehabilitation agencies that ensure continuity of funding for assistive technology devices and services to such students; and

(B) methods for dissemination of exemplary practices that can be adapted or adopted by transitional programs for secondary school students with disabilities.

(3)(A) The Secretary shall award one, five-year cooperative agreement through a separate competition to an institution of higher education, or nonprofit public or private organization. The purpose of this agreement will be to evaluate and document the approaches and outcomes of the projects funded under subsection (e) of this section. The results of this agreement shall be disseminated through the appropriate clearinghouses, networks, and through direct communication with Federal, State, and local agencies.

(B) The evaluation carried out pursuant to subparagraph (A) of transition services under subsection (e) of this section shall include an evaluation of—

(i) the outcomes of the transition services provided under such subsection, including the effect of the services regarding postsecondary education, job training, employment, and other appropriate matters;

(ii) the impact of including in the individualized education program a statement of needed transition services (as required under section 1401(a)(20)(D) of this title);

(iii) the extent to which, in the provision of the transition services, agencies are cooperating effectively, including evaluation of the extent of coordination of the staff of the agencies, of procedures regarding confidentiality, assessment of needs, and referrals, and coordination regarding data bases and training;

(iv) the extent to which obstacles exist regarding cooperation and coordination among agencies in the provision of the transition services, and the extent to which Federal law creates disincentives to such cooperation and coordination; and

(v) the extent to which the transition services have been provided in a cost-effective manner.

(C) The evaluation carried out pursuant to subparagraph (A) shall include recommenda-

tions on the manner in which the program under subsection (e) of this section can be improved.

(D) In the annual report required under section 1418(g) of this title, the Secretary shall include a report of the activities and results associated with the agreement under subparagraph (A).

(g) Coordination of educational programs with vocational rehabilitation projects and vocational education projects

The Secretary, as appropriate, shall coordinate programs described under subsection (a) of this section with projects developed under section 777a of title 29, the Job Training Partnership Act (JTPA) [29 U.S.C. 1501 et seq.], and the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2301 et seq.].

(As amended Pub. L. 101-476, title III, § 306, title IX, § 901(b)(119)-(127), Oct. 30, 1990, 104 Stat. 1124, 1147, 1148.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsecs. (a), (e)(3)(C), and (g), is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, which is classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

The State section 110 and/or title VI, part C program authorized under the Rehabilitation Act of 1973, referred to in subsec. (e)(4)(B)(ix), is a program authorized under section 110 and/or part C (§ 631 et seq.) of title VI of Pub. L. 93-112, which are classified generally to section 730 of Title 29, and part C (§ 795j et seq.) of subchapter VI of chapter 16 of Title 29, respectively.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (g), is Pub. L. 88-210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

AMENDMENTS

1990—Pub. L. 101-476, § 901(b)(119), in section catchline, substituted provisions relating to children and youth with disabilities for provisions relating to handicapped children and youth.

Subsec. (a)(1). Pub. L. 101-476, §§ 306(a), 901(b)(120), substituted "youth with disabilities" for "handicapped youth" and inserted "independent and community living," after "continuing education,".

Subsec. (a)(3). Pub. L. 101-476, § 901(b)(121), substituted "students with disabilities" for "handicapped students".

Subsec. (b)(1). Pub. L. 101-476, § 901(b)(122), substituted "youth with disabilities" for "handicapped youth".

Subsec. (b)(2). Pub. L. 101-476, §§ 306(b)(1), 901(b)(122), inserted "independent living," after "training," and substituted "youth with disabilities" for "handicapped youth".

Subsec. (b)(3). Pub. L. 101-476, § 901(b)(122), (123), substituted "disabling" and "youth with disabilities" for "handicapping" and "handicapped youth", respectively.

Subsec. (b)(4), (6), (7). Pub. L. 101-476, § 901(b)(122), substituted "youth with disabilities" for "handicapped youth".

Subsec. (b)(8). Pub. L. 101-476, §§ 306(b)(2), 901(b)(123), substituted "disabling conditions and reasons why some youth with disabilities remain to complete school programs while others drop out," for "handicapping conditions and reasons why handicapped youth drop out of school, and".

Subsec. (b)(9). Pub. L. 101-476, §§ 306(b)(3), 901(b)(124), substituted "developing curriculum and instructional techniques in special education and related services that will improve the acquisition of skills by students with disabilities necessary" for "developing special education curriculum and instructional techniques that will improve handicapped students' acquisition of the skills necessary".

Subsec. (b)(10). Pub. L. 101-476, § 306(b)(4), substituted "specially designed or adapted physical education and therapeutic recreation programs to facilitate the full participation of youths with disabilities in community programs" for "specially designed physical education and therapeutic recreation programs to increase the potential of handicapped youths for community participation".

Subsec. (b)(11). Pub. L. 101-476, § 306(b)(5), added par. (11).

Subsec. (d)(2). Pub. L. 101-476, § 901(b)(125), substituted "youth with disabilities" for "handicapped youth".

Subsec. (d)(3). Pub. L. 101-476, §§ 306(c), 901(b)(126), substituted "students with disabilities" for "handicapped students", in two places and struck out "to the extent appropriate," before "provide".

Subsec. (e). Pub. L. 101-476, § 306(d), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 101-476, § 306(d), (e), redesignated subsec. (e) as (f), designated existing provisions as par. (1), inserted provisions relating to dissemination of materials and information as prescribed under section 1409(g) of this title, and added pars. (2) and (3). Former subsec. (f) redesignated (g).

Subsec. (f)(1). Pub. L. 101-476, § 901(b)(127), which directed the substitution of "children and youth with disabilities" for "handicapped children and youth" in subsec. (e) was executed to subsec. (f)(1) to reflect the probable intent of Congress and the redesignation of subsec. (e) as (f)(1) by Pub. L. 101-476, § 306(d), (e)(1)(A). See above.

Subsec. (g). Pub. L. 101-476, § 306(d), (f), redesignated subsec. (f) as (g) and inserted provisions referring to Job Training Partnership Act and Carl D. Perkins Vocational and Applied Technology Education Act.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1427, 2328 of this title; title 29 section 777a.

§ 1426. Programs for children and youth with serious emotional disturbance

(a) Grants, contracts, and cooperative agreements to establish projects

The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, State and local educational agencies, and other appropriate public and private nonprofit institutions or agencies to establish projects for the purpose of improving special education and related services to children and youth with serious emotional disturbance. Such projects may include—

(1) studies regarding the present state of special education and related services to such

children and youth and their families, including information and data to enable assessments of the status of such services over time;

(2) developing methodologies and curricula designed to improve special education and related services for these children and youth;

(3) developing and demonstrating strategies and approaches to reduce the use of out-of-community residential programs and the increased use of school district-based programs (which may include day treatment programs, after-school programs, and summer programs);

(4) developing the knowledge, skills, and strategies for effective collaboration among special education, regular education, related services, and other professionals and agencies; or

(5) developing and demonstrating innovative approaches to assist and to prevent children with emotional and behavioral problems from developing serious emotional disturbances that require the provision of special education and related services.

(b) Grants to provide services

(1) The Secretary is authorized to make grants, on a competitive basis, to local educational agencies in collaboration with mental health entities to provide services for children and youth with serious emotional disturbance. Such demonstration projects shall—

(A) increase the availability, access, and quality of community services for such children and youth and their families;

(B) improve working relationships among education, school, and community mental health and other relevant personnel, families of such children and youth, and their advocates;

(C) target resources to school settings, such as providing access to school and/or community mental health professionals and other community resources for students with serious emotional disturbance who are in community school settings; and

(D) take into account the needs of minority children and youth in all phases of project activity.

(2) Funds received under this subsection may also be used to facilitate interagency and private sector resource pooling to improve services for such children and youth and to provide information and training for those involved with, or who could be involved with, such children and youth.

(c) Requirements of projects assisted

Each project assisted under this section shall—

(1) apply existing research outcomes from multi-disciplinary fields;

(2) use a grant evaluation plan that is outcome-oriented and that focuses on the benefits to individual children and youth;

(3) report on the effectiveness of such project; and

(4) disseminate the findings of such project, where appropriate, in accordance with section 1409(g) of this title.

(As amended Pub. L. 101-476, title III, § 307, Oct. 30, 1990, 104 Stat. 1127.)

AMENDMENTS

1990—Pub. L. 101-476 amended section generally. Prior to amendment, section read as follows: "The Secretary shall conduct, either directly or by contract, a thorough and continuing evaluation of the effectiveness of each program assisted under this subchapter. Results of the evaluations shall be analyzed and submitted to the appropriate committees of each House of Congress together with the annual report under section 1416 of this title."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427 of this title.

§ 1427. Authorization of appropriations

(a) There are authorized to be appropriated to carry out section 1421 of this title \$8,525,000 for fiscal year 1991, \$9,300,000 for fiscal year 1992, \$10,140,000 for fiscal year 1993, and \$11,052,000 for fiscal year 1994.

(b) There are authorized to be appropriated to carry out section 1422 of this title \$21,900,000 for fiscal year 1991, \$24,100,000 for fiscal year 1992, \$26,500,000 for fiscal year 1993, and \$29,200,000 for fiscal year 1994.

(c) There are authorized to be appropriated to carry out section 1423 of this title \$31,400,000 for fiscal year 1991, \$34,235,000 for fiscal year 1992, \$37,325,000 for fiscal year 1993, and \$40,705,000 for fiscal year 1994.

(d) There are authorized to be appropriated to carry out section 1424 of this title \$9,500,000 for fiscal year 1991, \$10,500,000 for fiscal year 1992, \$11,800,000 for fiscal year 1993, and \$12,700,000 for fiscal year 1994.

(e) There are authorized to be appropriated to carry out section 1424a of this title \$9,470,000 for fiscal year 1991, \$10,230,000 for fiscal year 1992, \$11,050,000 for fiscal year 1993, and \$11,930,000 for fiscal year 1994.

(f) There are authorized to be appropriated to carry out section 1425 of this title (except subsection (e)) \$9,800,000 for fiscal year 1991, \$10,800,000 for fiscal year 1992, \$11,900,000 for fiscal year 1993, and \$13,050,000 for fiscal year 1994.

(g) There are authorized to be appropriated to carry out section 1425(e) of this title \$27,500,000 for fiscal year 1991, \$30,250,000 for fiscal year 1992, \$33,275,000 for fiscal year 1993, and \$36,602,000 for fiscal year 1994.

(h) There are authorized to be appropriated to carry out section 1426 of this title \$6,500,000 for fiscal year 1991, \$8,000,000 for fiscal year 1992, \$9,500,000 for fiscal year 1993, and \$11,500,000 for fiscal year 1994.

(As amended Pub. L. 101-476, title III, § 308, Oct. 30, 1990, 104 Stat. 1128.)

AMENDMENTS

1990—Pub. L. 101-476 amended section generally, substituting provisions authorizing appropriations for sections 1421 to 1426 of this title for fiscal years 1991,

1992, 1993, and 1994 for provisions authorizing appropriations for sections 1421 to 1425 of this title for fiscal years 1987, 1988, and 1989.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SUBCHAPTER IV—TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1408, 1409, 1418, 1421 of this title.

§ 1431. Grants for personnel training

(a) Careers in special education; personnel training standards; costs of courses, fellowships, and traineeships; contract authority for areas of personnel shortages

(1) The Secretary may make grants, which may include scholarships with necessary stipends and allowances, to institutions of higher education (including university affiliated programs and satellite centers participating in programs under part D of the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 6061 et seq.]) and other appropriate non-profit agencies to assist them in training personnel for careers in special education, related services, and early intervention, including—

(A) special education teaching, including speech-language pathology and audiology, and adapted physical education and instructional and assistive technology services,

(B) related services to children and youth with disabilities in educational settings, and other settings,

(C) special education and other careers in preschool and early intervention services for infants and toddlers with disabilities,

(D) special education leadership, including supervision and administration (at the advanced graduate, doctoral, and post-doctoral levels), special education research, and special education personnel preparation (at the doctoral and post-doctoral levels), and

[See main edition for text of (E)]

(2)(A) The Secretary shall base the award of grants under paragraph (1) on information relating to the present and projected need for special education, related services, early intervention, and other personnel to be trained based on identified State, regional, or national shortages, including the need for personnel in the provision of special education to children of limited English proficiency, and the capacity of the institution or agency to train qualified personnel, and other information considered appropriate by the Secretary.

(B) The Secretary shall ensure that grants are only made under paragraph (1) to applicant agencies and institutions that meet State and professionally recognized standards for the preparation of special education and related services personnel unless the grant is for the purpose of assisting the applicant agency or in-

stitution to meet such standards, and that include in their applications a detailed description of strategies that will be utilized to recruit and train members of minority groups and persons with disabilities.

(3) Grants under paragraph (1) may be used by institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary. Such institutions shall give priority consideration in the selection of qualified recipients of fellowships and traineeships to individuals from disadvantaged backgrounds, including minorities and individuals with disabilities who are underrepresented in the teaching profession or in the specializations in which they are being trained.

[See main edition for text of (4)]

(5) In making grants under subsection (a)(1) of this section, the Secretary may determine that a portion of training supported through such grants shall be conducted on an interdisciplinary basis, and shall be designed to assist special educators in properly coordinating service provision with related services personnel. To the extent feasible, training programs funded under subsection (a)(1)(B) and (a)(1)(E) of this section shall require practica to demonstrate the delivery of related services in an array of regular and special education and community settings.

(6) Nothing in this subsection shall be construed to prevent regular education or special education personnel from benefiting or participating in training activities conducted under this subsection on a preservice or inservice basis.

(7) The Secretary, in carrying out paragraph (1), shall make grants to Historically Black Colleges and Universities, and other institutions of higher education whose minority student enrollment is at least 25 percent.

(b) Special projects for preservice training, regular educators, and inservice training of special education personnel

The Secretary may make grants to institutions of higher education, State agencies, and other appropriate nonprofit agencies and organizations to develop and demonstrate effective ways for preservice training programs to prepare regular educators to work with children and youth with disabilities and their families; for training teachers to work in community and school settings with school students with disabilities and their families; for inservice and preservice training of personnel to work with infants, toddlers, children, and youth with disabilities and their families; for inservice and preservice training of personnel to work with minority infants, toddlers, children, and youth with disabilities and their families; for preservice and inservice training of special education and related services personnel in the use of assistive and instructional technology to benefit infants, toddlers, children, and youth with disabilities; and for the recruitment and retention of special education, related services, and early

intervention personnel. Both preservice and inservice training shall include a component that addresses the coordination among all service providers, including regular educators.

(c) Parent training and information programs

(1) The Secretary may make grants through a separate competition to private nonprofit organizations for the purpose of providing training and information to parents of infants, toddlers, children, and youth with disabilities and persons who work with parents to enable such individuals to participate more effectively with professionals in meeting the educational needs of children with disabilities. Such grants shall be designed to meet the unique training and information needs of parents of infants, toddlers, children, and youth with disabilities living in the area to be served by the grant, particularly those who are members of groups that have been traditionally underrepresented.

(2) In order to receive a grant under paragraph (1) a private nonprofit organization shall—

(A) be governed by a board of directors of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly minority parents, and that includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, and individuals with disabilities, or, if the nonprofit private organization does not have such a board, such organization shall have a membership that represents the interests of individuals with disabilities, and shall establish a special governing committee of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly parents of minority children, and which includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, to operate the training and information program under paragraph (1), and parent and professional membership of these boards or special governing committees shall be broadly representative of minority and other individuals and groups having an interest in special education, early intervention, and related services;

(B) serve the parents of infants, toddlers, children, and youth with the full range of disabling conditions under such grant program, and

(C) demonstrate the capacity and expertise to conduct effectively the training and information activities for which a grant may be made under paragraph (1), and, for purposes of paragraph (1), network with clearinghouses, including those established under section 1433 of this title and other organizations and agencies, and network with other established national, State, and local parent groups representing the full range of parents of infants, toddlers, children, and youth with disabilities, especially parents of minority children.

Nothing in subparagraph (A) shall be construed to authorize or permit the denial to any person of the due process of law required by the United States Constitution.

[See main edition for text of (3)]

(4) The Secretary shall ensure that grants under paragraph (1) will—

(A) be distributed geographically to the greatest extent possible throughout all the States and give priority to grants which involve unserved areas,

(B) be targeted to parents of children with disabilities in both urban and rural areas or on a State or regional basis,

(C) serve parents of minority children with disabilities representative to the proportion of the minority population in the areas being served, and

(D) be funded at a sufficient size, scope, and quality to ensure that the program is adequate to serve the parents in the area.

(5) Parent training and information programs assisted under paragraph (1) shall assist parents to—

(A) better understand the nature and needs of the disabling conditions of children,

(B) provide followup support for educational programs of children with disabilities,

[See main edition for text of (C)]

(D) participate in educational decisionmaking processes including the development of a individualized educational program of a child with a disability,

(E) obtain appropriate information about the range of options, programs, services, and resources available at the national, State, and local levels to assist infants, toddlers, children, and youth with disabilities and their families, and

(F) understand the provisions for the education of infants, toddlers, children, and youth with disabilities under this chapter.

[See main edition for text of (6)]

(7) Each private nonprofit organization operating a program receiving a grant under paragraph (1) shall consult and network with appropriate national, State, regional, and local agencies and organizations, such as protection and advocacy agencies, that serve or assist infants, toddlers, children, and youth with disabilities and their families and are located in the jurisdictions served by the program.

[See main edition for text of (8)]

(9) After the establishment in each State of a parent training and information center, the Secretary shall provide for the establishment of 3 experimental centers to serve large numbers of parents of children with disabilities located in high density areas that do not have such centers and 2 such centers to serve large numbers of parents of children with disabilities located in rural areas.

(10) Effective for fiscal year 1991 and every year thereafter, the Secretary shall obtain data

concerning programs and centers assisted under this subsection on—

(A) the number of parents provided information and training by disability category of their children,

(B) the types and modes of information or training provided,

(C) strategies used to reach and serve parents of minority infants, toddlers, children, and youth with disabilities,

(D) the number of parents served as a result of activities described under subparagraph (C),

(E) activities to network with other information clearinghouses and parent groups as required in subsection (c)(2)(C) of this section, and

(F) the number of agencies and organizations consulted with at the national, State, regional, and local levels.

The Secretary shall include a summary of this information in the annual report to Congress as required in section 1418(g) of this title.

(As amended Pub. L. 101-476, title IV, § 401, title IX, § 901(b)(129)-(142), Oct. 30, 1990, 104 Stat. 1129, 1148.)

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-476, § 401(a)(1), in introductory provisions inserted “, related services,” after “special education”.

Subsec. (a)(1)(A). Pub. L. 101-476, § 401(a)(2), substituted “adapted physical education and instructional and assistive technology services” for “adaptive physical education”.

Subsec. (a)(1)(B). Pub. L. 101-476, § 901(b)(129), which directed the substitution of “children and youth with disabilities” for “handicapped children and youth”, could not be executed because “handicapped children and youth” did not appear following the general amendment by Pub. L. 101-476, § 401(a)(3). See below.

Pub. L. 101-476, § 401(a)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “related services to handicapped children and youth in educational settings.”

Subsec. (a)(1)(C), (D). Pub. L. 101-476, § 401(a)(3), amended subpars. (C) and (D) generally. Prior to amendment, subpars. (C) and (D) read as follows:

“(C) special education supervision and administration,

“(D) special education research, and”.

Subsec. (a)(2)(A). Pub. L. 101-476, § 401(b)(1), substituted “for special education, related services, early intervention, and other personnel” for “for the personnel” and inserted “, including the need for personnel in the provision of special education to children of limited English proficiency” after “shortages”.

Subsec. (a)(2)(B). Pub. L. 101-476, § 401(b)(2), inserted before period at end “, and that include in their applications a detailed description of strategies that will be utilized to recruit and train members of minority groups and persons with disabilities”.

Subsec. (a)(3). Pub. L. 101-476, § 401(b)(3), inserted at end “Such institutions shall give priority consideration in the selection of qualified recipients of fellowships and traineeships to individuals from disadvantaged backgrounds, including minorities and individuals with disabilities who are underrepresented in the teaching profession or in the specializations in which they are being trained.”

Subsec. (a)(5) to (7). Pub. L. 101-476, § 401(c), added pars. (5) to (7).

¹ So in original. The word “a” probably should not appear.

Subsec. (b), Pub. L. 101-476, § 901(b)(130), which directed the substitution of "children with disabilities" for "handicapped children", could not be executed because "handicapped children" did not appear following amendment by Pub. L. 101-476, § 401(d). See below.

Pub. L. 101-476, § 401(d), substituted "nonprofit agencies and organizations to develop and demonstrate effective ways for preservice training programs to prepare regular educators to work with children and youth with disabilities and their families; for training teachers to work in community and school settings with school students with disabilities and their families; for inservice and preservice training of personnel to work with infants, toddlers, children, and youth with disabilities and their families; for inservice and preservice training of personnel to work with minority infants, toddlers, children, and youth with disabilities and their families; for preservice and inservice training of special education and related services personnel in the use of assistive and instructional technology to benefit infants, toddlers, children, and youth with disabilities; and for the recruitment and retention of special education, related services, and early intervention personnel. Both preservice and inservice training shall include a component that addresses the coordination among all service providers, including regular educators" for "nonprofit agencies to conduct special projects to develop and demonstrate new approaches (including the application of new technology) for the preservice training purposes set forth in subsection (a) of this section, for regular educators, for the training of teachers to work in community and school settings with handicapped secondary school students, and for the inservice training of special education personnel, including classroom aides, related services personnel, and regular education personnel who serve handicapped children and personnel providing early intervention services".

Subsec. (c)(1), Pub. L. 101-476, §§ 401(h)(1), 901(b)(131), substituted "parents of infants, toddlers, children, and youth with disabilities" for "parents of handicapped children" in two places and "children with disabilities" for "handicapped children".

Subsec. (c)(2), Pub. L. 101-476, § 401(e)(2), inserted sentence at end prohibiting construction of subpar. (A) as authorizing or permitting denial of due process of law to any person.

Subsec. (c)(2)(A), Pub. L. 101-476, § 901(b)(132)–(134), which directed the substitution of "children with disabilities" for "handicapped children", "children and youth with disabilities" for "handicapped children and youth", and "disabling" for "handicapping", could not be executed because those terms did not appear following the general amendment by Pub. L. 101-476, § 401(e)(1)(A). See below.

Pub. L. 101-476, § 401(e)(1)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "be governed by a board of directors of which a majority of the members are parents of handicapped children and which includes members who are professionals in the field of special education and related services who serve handicapped children and youth, or if the nonprofit private organization does not have such a board, such organization shall have a membership which represents the interests of individuals with handicapping conditions, and shall establish a special governing committee of which a majority of the members are parents of handicapped children and which includes members who are professionals in the fields of special education and related services, to operate the training and information program under paragraph (1)".

Subsec. (c)(2)(B), Pub. L. 101-476, §§ 401(e)(1)(B)(ii), 901(b)(135), amended subpar. (B) identically, substituting "disabling" for "handicapping".

Pub. L. 101-476, § 401(e)(1)(B)(i), substituted "infants, toddlers, children, and youth" for "children".

Subsec. (c)(2)(C), Pub. L. 101-476, § 401(e)(1)(C), inserted before period at end ", and, for purposes of

paragraph (1), network with clearinghouses, including those established under section 1433 of this title and other organizations and agencies, and network with other established national, State, and local parent groups representing the full range of parents of infants, toddlers, children, and youth with disabilities, especially parents of minority children".

Subsec. (c)(4)(B), Pub. L. 101-476, § 901(b)(136), substituted "children with disabilities" for "handicapped children".

Subsec. (c)(4)(C), (D), Pub. L. 101-476, § 401(f), added subpars. (C) and (D).

Subsec. (c)(5)(A), Pub. L. 101-476, § 901(b)(137), substituted "disabling" for "handicapping".

Subsec. (c)(5)(B), Pub. L. 101-476, § 901(b)(138), substituted "educational programs of children with disabilities" for "handicapped children's educational programs".

Subsec. (c)(5)(D), Pub. L. 101-476, § 901(b)(139), substituted "the individualized educational program of a child with a disability" for "handicapped child's individualized educational program".

Subsec. (c)(5)(E), Pub. L. 101-476, § 901(b)(140), which directed the substitution of "children with disabilities" for "handicapped children", could not be executed because "handicapped children" did not appear following the general amendment by Pub. L. 101-476, § 401(h)(2)(A). See below.

Pub. L. 101-476, § 401(h)(2)(A), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: "obtain information about the programs, services, and resources available to handicapped children and the degree to which the programs, services, and resources are appropriate, and".

Subsec. (c)(5)(F), Pub. L. 101-476, § 901(b)(141), which directed the substitution of "children with disabilities" for "handicapped children", could not be executed because "handicapped children" did not appear following amendment by Pub. L. 101-476, § 401(h)(2)(B). See below.

Pub. L. 101-476, § 401(h)(2)(B), substituted "infants, toddlers, children, and youth with disabilities under this chapter" for "handicapped children as specified under subchapter II of this chapter".

Subsec. (c)(7), Pub. L. 101-476, § 901(b)(142), which directed the substitution of "children and youth with disabilities" for "handicapped children and youth", could not be executed because "handicapped children and youth" did not appear following amendment by Pub. L. 101-476, § 401(h)(3)(B). See below.

Pub. L. 101-476, § 401(h)(3), substituted "and network with appropriate national, State, regional, and local agencies and organizations, such as protection and advocacy agencies, that" for "with appropriate agencies which" and "infants, toddlers, children, and youth with disabilities and their families" for "handicapped children and youth".

Subsec. (c)(9), (10), Pub. L. 101-476, § 401(g), added pars. (9) and (10).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1434, 1435 of this title.

§ 1432. Grants to State educational agencies and institutions for traineeships

[See main edition for text of (a) and (b)]

(c) Purpose of grants

Grants made under this section shall be for the purpose of assisting States in establishing and maintaining preservice and inservice pro-

grams to prepare special and regular education, related services and early intervention personnel to meet the needs of infants, toddlers, children, and youth with disabilities or supervisors of such persons, consistent with the personnel needs identified in the State's comprehensive system of personnel development under section 1413 of this title and under section 1476(b)(8) of this title, and to assist the State in developing and maintaining such systems and conducting personnel recruitment and retention activities.

(d) Technical assistance to States

The Secretary is authorized to provide directly or by grant, contract, or cooperative agreement, technical assistance to State educational agencies on matters pertaining to the effective implementation of section 1413(a)(3) of this title.

(As amended Pub. L. 101-476, title IV, § 402, title IX, § 901(b)(143), Oct. 30, 1990, 104 Stat. 1132, 1148.)

AMENDMENTS

1990—Subsec. (c), Pub. L. 101-476, §§ 402(1), 901(b)(143), inserted "special and regular education, related services and early intervention" after "prepare", substituted "infants, toddlers, children, and youth with disabilities" for "handicapped infants, toddlers, children, and youth", and inserted before period at end "and to assist the State in developing and maintaining such systems and conducting personnel recruitment and retention activities".

Subsec. (d), Pub. L. 101-476, § 402(2), added subsec. (d).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

CONTINUATION GRANTS

Section 104(d) of Pub. L. 100-630 authorized Secretary of Education to make continuation grants for fiscal year 1989 to institutions of higher education that received competitive grants for fiscal year 1987.

§ 1433. Clearinghouses

(a) Establishment of national clearinghouses

The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public agencies or private nonprofit organizations or institutions for the establishment of three national clearinghouses: on children and youth with disabilities; on postsecondary education for individuals with disabilities; and on careers in special education, to—

(1) collect, develop, and disseminate information,

(2) provide technical assistance,

(3) conduct coordinated outreach activities,

(4) provide for the coordination and networking with other relevant national, State, and local organizations and information and referral resources,

(5) respond to individuals and organizations seeking information, and

(6) provide for the synthesis of information for its effective utilization by parents, professionals, individuals with disabilities, and other interested parties.

(b) National clearinghouse for children and youth with disabilities

The national clearinghouse for children and youth with disabilities shall:

(1) Collect and disseminate information (including the development of materials) on characteristics of infants, toddlers, children, and youth with disabilities and on programs, legislation, and services relating to their education under this chapter and other Federal laws.

(2) Participate in programs and services related to disability issues for providing outreach, technical assistance, collection, and dissemination of information; and promoting networking of individuals with appropriate national, State, and local agencies and organizations.

(3) Establish a coordinated network and conduct outreach activities with relevant Federal, State, and local organizations and other sources for promoting public awareness of disability issues and the availability of information, programs, and services.

(4) Collect, disseminate, and develop information on current and future national, Federal, regional, and State needs for providing information to parents, professionals, individuals with disabilities, and other interested parties relating to the education and related services of individuals with disabilities.

(5) Provide technical assistance to national, Federal, regional, State and local agencies and organizations seeking to establish information and referral services for individuals with disabilities and their families.

(6) In carrying out the activities in this subsection, the clearinghouse will include strategies to disseminate information to underrepresented groups such as those with limited English proficiency.

(c) National clearinghouse on postsecondary education for individuals with disabilities

The national clearinghouse on postsecondary education for individuals with disabilities shall:

(1) Collect and disseminate information nationally on characteristics of individuals entering and participating in education and training programs after high school; legislation affecting such individuals and such programs; policies, procedures, and support services, as well as adaptations, and other resources available or recommended to facilitate the education of individuals with disabilities; available programs and services that include, or can be adapted to include, individuals with disabilities; and sources of financial aid for the education and training of individuals with disabilities.

(2) Identify areas of need for additional information.

(3) Develop new materials (in both print and nonprint form), especially by synthesizing information from a variety of fields affecting disability issues and the education, rehabilitation, and retraining of individuals with disabilities.

(4) Develop a coordinated network of professionals, related organizations and associa-

tions, mass media, other clearinghouses, and governmental agencies at the Federal, regional, State, and local level for the purposes of disseminating information and promoting awareness of issues relevant to the education of individuals with disabilities after high school and referring individuals who request information to local resources.

(5) Respond to requests from individuals with disabilities, their parents, and professionals who work with them, for information that will enable them to make appropriate decisions about postsecondary education and training.

(d) National clearinghouse on careers in special education

The national clearinghouse designed to encourage students to seek careers and professional personnel to seek employment in the various fields relating to the education of children and youth with disabilities shall:

(1) Collect and disseminate information on current and future national, regional, and State needs for special education and related services personnel.

(2) Disseminate information to high school counselors and others concerning current career opportunities in special education, location of programs, and various forms of financial assistance (such as scholarships, stipends, and allowances).

(3) Identify training programs available around the country.

(4) Establish a network among local and State educational agencies and institutions of higher education concerning the supply of graduates and available openings.

(5) Provide technical assistance to institutions seeking to meet State and professionally recognized standards.

(e) Priority consideration of applicants

(1) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in performing the functions established in this section; and with the ability to conduct such projects, communicate with intended consumers of information, and maintain the necessary communication with national, regional, State, and local agencies and organizations.

(2) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in providing informational services to minorities and minority organizations.

(f) Annual report to Congress

(1) Beginning in fiscal year 1991, and for each year thereafter, the Secretary shall obtain information on each project assisted under this section, including—

(A) the number of individuals served by disability category, as appropriate, including parents, professionals, students, and individuals with disabilities;

(B) a description of responses utilized;

(C) a listing of new products developed and disseminated; and

(D) a description of strategies and activities utilized for outreach to urban and rural areas with populations of minorities and underrepresented groups.

(2) A summary of the data required by this subsection shall be included in the annual report to Congress required under section 1418 of this title.

(As amended Pub. L. 101-476, title IV, § 403, title IX, § 901(b)(144), Oct. 30, 1990, 104 Stat. 1133, 1149.)

AMENDMENTS

1990—Pub. L. 101-476, § 403, amended section generally, substituting provisions establishing clearinghouses on children and youth with disabilities, on postsecondary education for individuals with disabilities, and on careers in special education for provisions establishing clearinghouse on education of handicapped persons in subsec. (a), substituting provisions relating to duties and functions of clearinghouse for children and youth with disabilities for provisions establishing clearinghouse on postsecondary education for handicapped individuals in subsec. (b), substituting provisions relating to duties and functions of clearinghouse on postsecondary education for individuals with disabilities for provisions establishing clearinghouse to encourage careers in educating handicapped children and youth in subsec. (c), substituting provisions relating to duties and functions of clearinghouse on careers in special education for provisions relating to considerations governing awards and limitation of contracts with profitmaking organizations in subsec. (d), and adding subssecs. (e) and (f).

Subsec. (c), Pub. L. 101-476, § 301(b)(144), which directed the substitution of "children and youth with disabilities" for "handicapped children and youth", could not be executed because "handicapped children and youth" did not appear following the general amendment of this section by Pub. L. 101-476, § 403. See above.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1424a, 1431, 1434, 1435 of this title.

§ 1434. Reports to the Secretary

(a) Not more than sixty days after the end of any fiscal year, each recipient of a grant or contract under this subchapter during such fiscal year shall prepare and submit a report to the Secretary. Each such report shall be in such form and detail as the Secretary determines to be appropriate, and shall include—

(1) the number of individuals trained under the grant or contract, by category of training and level of training;

(2) the number of individuals trained under the grant or contract receiving degrees and certification, by category and level of training; and

(3) information described in section 1431(c)(9) of this title and section 1433(f)(1) of this title, as applicable.

[See main edition for text of (b)]

(As amended Pub. L. 101-476, title IV, § 404, Oct. 30, 1990, 104 Stat. 1135.)

AMENDMENTS

1990—Subsec. (a)(3), Pub. L. 101-476 added par. (3).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1435. Authorization of appropriations

(a) In general

(1) There are authorized to be appropriated to carry out this subchapter (other than sections 1431(a)(7), 1431(c), and 1433 of this title) \$4,725,000 for fiscal year 1991, \$103,255,000 for fiscal year 1992, \$113,580,000 for fiscal year 1993, and \$123,760,000 for fiscal year 1994.

(2) There are authorized to be appropriated to carry out section 1431(a)(7) of this title \$19,250,000 for fiscal year 1991, \$21,175,000 for fiscal year 1992, \$23,292,500 for fiscal year 1993, and \$25,621,750 for fiscal year 1994.

(3) There are authorized to be appropriated to carry out section 1431(c) of this title \$11,000,000 for fiscal year 1991, \$12,100,000 for fiscal year 1992, \$13,300,000 for fiscal year 1993, and \$14,600,000 for fiscal year 1994.

(4) There are authorized to be appropriated to carry out section 1433 of this title \$2,900,000 for fiscal year 1991, \$2,465,000 for fiscal year 1992, \$2,710,000 for fiscal year 1993, and \$2,960,000 for fiscal year 1994.

[See main edition for text of (b) and (c)]

(As amended Pub. L. 101-476, title IV, § 405, Oct. 30, 1990, 104 Stat. 1135.)

AMENDMENTS

1990—Pub. L. 101-476 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "There are authorized to be appropriated to carry out this subchapter (other than section 1433 of this title) \$70,400,000 for fiscal year 1987, \$74,500,000 for fiscal year 1988, and \$79,000,000 for fiscal year 1989. There are authorized to be appropriated to carry out section 1433 of this title, \$1,200,000 for fiscal year 1987, \$1,900,000 for fiscal year 1988, and \$2,000,000 for fiscal year 1989."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SUBCHAPTER V—RESEARCH IN THE EDUCATION OF INDIVIDUALS WITH DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1408, 1409, 1418, 1421 of this title.

§ 1441. Research and related activities

(a) Grants, contracts, and cooperative agreements

The Secretary may make grants to, or enter into contracts or cooperative agreements with, State and local educational agencies, institutions of higher education, other public agencies and nonprofit private organizations for the purpose of advancing and improving the knowledge

base and improving the practice of professionals, parents, and others providing early intervention, special education, and related services, including professionals who work with children and youth with disabilities in regular education environments, to provide such children effective instruction and enable them to successfully learn. The activities supported under this section shall support innovation, development, exchange, and use of such advancements in knowledge and practice designed to contribute to the improvement of instruction and learning of infants, toddlers, children, and youth with disabilities. In carrying out this section, the Secretary may support a wide range of research and related activities designed to—

(1) advance knowledge regarding the provision of instruction and other interventions to infants, toddlers, children, and youth with disabilities including—

(A) the organization, synthesis, and interpretation of current knowledge and the identification of knowledge gaps;

(B) the identification of knowledge and skill competencies needed by personnel providing special education, related services, and early intervention services;

(C) the improvement of knowledge regarding the developmental and learning characteristics of infants, toddlers, children, and youth with disabilities in order to improve the design and effectiveness of interventions and instruction;

(D) the evaluation of approaches and interventions;

(E) the development of instructional strategies, techniques, and activities;

(F) the improvement of curricula and instructional tools such as textbooks, media, materials, and technology;

(G) the development of assessment techniques, instruments (including tests, inventories, and scales), and strategies for measurement of progress and the identification, location, and evaluation of infants, toddlers, children, and youth with disabilities for the purpose of determining eligibility, program planning, and placement for special education, related services, and early intervention services. Particular attention should be given to the development of alternative assessment procedures and processes for minority individuals and those with limited English proficiency;

(H) the testing of research findings in practice settings to determine the application, usability, effectiveness, and generalizability of such research findings;

(I) the improvement of knowledge regarding families, minorities, limited English proficiency, and disabling conditions; and

(J) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice; and

(2) advance the use of knowledge by personnel providing special education, related services, and early intervention services including—

(A) the improvement of knowledge regarding how such individuals learn new knowledge and skills, and strategies for effectively facilitating such learning in pre-service, inservice, and continuing education;

(B) the organization, integration, and presentation of knowledge so that such knowledge can be incorporated and imparted in personnel preparation, continuing education programs, and other relevant training and communication vehicles; and

(C) the expansion and improvement of networks that exchange knowledge and practice information.

(b) Qualifications of applicants

In carrying out subsection (a) of this section, the Secretary shall consider the special education, related services, or early intervention and research experience of applicants.

(c) Publication of proposed priorities

The Secretary shall publish proposed priorities under this subchapter in the Federal Register not later than 12 months preceding the fiscal year for which they are being announced, and shall allow a period of 60 days for public comments and suggestions. The Secretary shall, after analyzing and considering the public comments, publish final priorities in the Federal Register not later than 90 days after the close of the comment period.

(d) Index of projects

The Secretary shall provide an index (including the title of each project and the name and address of the funded organization) of all projects conducted under this subchapter in the prior fiscal year in the annual report described under section 1418 of this title.

(e) Coordination with other research; information to other agencies

The Secretary shall—

(1) coordinate the priorities established under subsection (b) of this section with research priorities established by the National Institute for Disability and Rehabilitation Research and other appropriate agencies conducting research pertaining to the education of individuals with disabilities; and

(2) provide information concerning priorities established under subsection (b) of this section to the National Council on Disability and to the Bureau of Indian Affairs Advisory Committee for Exceptional Children.

(f) Attention deficit disorder

(1) The Secretary shall make grants or enter into contracts or cooperative agreements for the establishment of a center or centers designed to organize, synthesize, and disseminate current knowledge relating to children with attention deficit disorder with respect to the following:

(A) Assessment techniques, instruments, and strategies used for identification, location, evaluation and for measurement of progress.

(B) Knowledge and skill competencies needed by professionals providing special and regular education and related services.

(C) Environmental, organizational, resource, and other conditions necessary for effective professional practice.

(D) Developmental and learning characteristics.

(E) Instructional strategies, techniques, and activities.

(F) Curricula and instructional tools such as textbooks, media, materials, and technology.

(G) Strategies, techniques, and activities related to involvement of families.

(2) In awarding grants, contracts, and cooperative agreements under paragraph (1), the Secretary shall give priority consideration to applicants with—

(A) demonstrated knowledge concerning the disorder;

(B) proven effectiveness in performing the functions established in this subsection; and

(C) the ability to—

(i) conduct such projects;

(ii) communicate with intended consumers of information; and

(iii) maintain the necessary communication with national, regional, State, and local agencies.

(g) Model demonstration programs

(1) The Secretary shall make grants, or enter into contracts or cooperative agreements, for the establishment of model demonstration programs, of which some will be school-based models, that provide the services of an ombudsman to assist in resolving problems that are barriers to appropriate educational, related services, or other services for children and youth with disabilities.

(2) Programs under paragraph (1) shall provide or identify personnel to assist children and youth with disabilities, their parents or guardians, special and regular education teachers, State and local education administrators, and related services personnel to resolve problems in a timely manner through dispute mediation and other methods, notwithstanding due process procedures, in order to further the delivery of appropriate education and related services. Participation in this program does not preclude or delay due process under subchapter II of this chapter.

(3) Ombudsman services for programs under paragraph (1) shall be provided by social workers, parent advocates, psychologists, and persons with similar qualifications designated by the Secretary.

(As amended Pub. L. 101-476, title V, § 501, Oct. 30, 1990, 104 Stat. 1135.)

AMENDMENTS

1990—Pub. L. 101-476 amended section generally, substituting provisions relating to support of activities designed to advance knowledge regarding instruction and other interventions to infants, toddlers, children, and youth with disabilities for provisions relating to research of services for handicapped infants, toddlers, children, and youth and activities to increase knowledge and understanding of handicapping conditions and to improve special education, related services, and early intervention services; changing time periods for publication of proposed research priorities, comment,

and publication of final priorities; deleting requirement that the Secretary make reports of available research projects; and inserting provisions relating to attention deficit disorder and model demonstration programs to remove barriers to appropriate services for children and youth with disabilities.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1442. Research and demonstration projects in physical education and recreation for children with disabilities

The Secretary is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for children with disabilities, including therapeutic recreation, and to conduct research, surveys, or demonstrations relating to physical education or recreation for children with disabilities, including therapeutic recreation.

(As amended Pub. L. 101-476, title V, § 502, Oct. 30, 1990, 104 Stat. 1138.)

AMENDMENTS

1990—Pub. L. 101-476 substituted “recreation for children with disabilities, including therapeutic recreation” for “recreation for handicapped children” in two places.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1443. Repealed. Pub. L. 101-476, title V, § 503, Oct. 30, 1990, 104 Stat. 1138

Section, Pub. L. 91-230, title VI, § 643, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98-199, § 3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1373; Pub. L. 99-457, title III, § 313, Oct. 8, 1986, 100 Stat. 1170; Pub. L. 100-630, title I, § 105(c), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101-476, title IX, § 901(b)(145), (146), Oct. 30, 1990, 104 Stat. 1149, related to requirement of the Secretary to convene panels of experts to evaluate proposals for projects under subchapters III through VII of this chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as an Effective Date of 1990 Amendment note under section 238 of this title.

§ 1444. Authorization of appropriations

For purposes of carrying out this subchapter, there are authorized to be appropriated \$21,100,000 for fiscal year 1990, \$24,650,000 for fiscal year 1991, \$27,400,000 for fiscal year 1992, \$30,200,000 for fiscal year 1993, and \$33,200,000 for fiscal year 1994.

(Pub. L. 91-230, title VI, § 643, formerly § 644, Apr. 13, 1970, 84 Stat. 186; Pub. L. 93-380, title VI, § 619, Aug. 21, 1974, 88 Stat. 585; Pub. L.

95-49, § 5, June 17, 1977, 91 Stat. 231; Pub. L. 98-199, § 12, Dec. 2, 1983, 97 Stat. 1374; Pub. L. 99-457, title III, § 314, Oct. 8, 1986, 100 Stat. 1171; renumbered § 643 and amended Pub. L. 101-476, title V, §§ 503, 504, title IX, § 901(b)(147), (148), Oct. 30, 1990, 104 Stat. 1138, 1149.)

AMENDMENTS

1990—Pub. L. 101-476, § 901(b)(147), (148), which directed the substitution of “individuals with disabilities” for “handicapped individuals” in section 644(a)(1), (2) (20 U.S.C. 1444(a)(1), (2)) could not be executed to this section and was probably intended to be an amendment of section 1443(a)(1), (2) of this title prior to the repeal of that section by Pub. L. 101-476, § 503.

Pub. L. 101-476, § 504, in amending section generally, substituted provisions authorizing appropriations for fiscal years 1990 to 1994 for provisions authorizing appropriations for fiscal years 1987 to 1989.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SUBCHAPTER VI—INSTRUCTIONAL MEDIA FOR INDIVIDUALS WITH DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1408, 1409, 1418, 1421, 4342 of this title.

§ 1451. Purposes

The purposes of this subchapter are to promote—

(1) the general welfare of deaf and hard of hearing individuals by—

(A) bringing to such individuals understanding and appreciation of those films and television programs that play such an important part in the general and cultural advancement of hearing individuals;

(B) providing through these films and television programs enriched educational and cultural experiences through which deaf and hard of hearing individuals can be brought into better touch with the realities of their environment; and

(C) providing a wholesome and rewarding experience that deaf and hard of hearing individuals may share together; and ¹

(2) the educational advancement of individuals with disabilities by—

(A) carrying on research in the use of educational media for individuals with disabilities;

(B) producing and distributing educational media for the use of individuals with disabilities, their parents, their actual or potential employers, and other individuals directly involved in work for the advancement of individuals with disabilities;

(C) training individuals in the use of educational media for the instruction of individuals with disabilities; and

¹ So in original. The word “and” probably should not appear.

(D) utilizing educational media to help eliminate illiteracy among individuals with disabilities;²

(3) the general welfare of visually impaired individuals by—

(A) bringing to such individuals an understanding and appreciation of textbooks, films, television programs, video material, and other educational publications and materials that play such an important part in the general and cultural advancement of visually unimpaired individuals; and

(B) ensuring access to television programming and other video materials.

(As amended Pub. L. 101-476, title VI, § 601, title IX, § 901(b)(150), Oct. 30, 1990, 104 Stat. 1138, 1149.)

AMENDMENTS

1990—Pub. L. 101-476, § 601(1), which directed that subsec. (a) designation be struck out, could not be executed because it had been struck out by Pub. L. 100-630. See 1988 Amendment note below.

Par. (1). Pub. L. 101-476, § 601(2)(A)-(C), in introductory provisions and subpars. (B) and (C) inserted "and hard of hearing" after "deaf", in subpar. (A) inserted "and television programs" after "those films", and in subpar. (B) inserted "and television programs" after "these films".

Par. (2). Pub. L. 101-476, § 901(b)(150), which directed the substitution of "individuals with disabilities" for "handicapped individuals" each place such term appears in subsec. (a)(2), was executed to par. (2) to reflect the probable intent of Congress and the prior deletion of the subsec. (a) designation by Pub. L. 100-630. See 1988 Amendment note below.

Par. (2)(D). Pub. L. 101-476, § 601(2)(3), added subpar. (D).

Par. (3). Pub. L. 101-476, § 601(3)(4), added par. (3).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1452. Captioned films, television, descriptive video, and educational media for individuals with disabilities

(a) Establishment of loan service

The Secretary shall establish a loan service of captioned films, descriptive video, and educational media for the purpose of making such materials available, in accordance with regulations, in the United States for nonprofit purposes to individuals with disabilities, parents of individuals with disabilities, and other individuals directly involved in activities for the advancement of individuals with disabilities, including for the purpose of addressing problems of illiteracy among individuals with disabilities.

(b) Authority of Secretary

The Secretary is authorized to—

[See main edition for text of (1) and (2)]

(3) provide, by grant or contract, for the captioning for deaf and hard of hearing individuals and video description for the visually impaired, of films, television programs, and video materials;

(4) provide, by grant or contract, for the distribution of captioned and video-described films, video materials, and other educational media and equipment through State schools for individuals with disabilities, public libraries, and such other agencies or entities as the Secretary may deem appropriate to serve as local or regional centers for such distribution;

(5) provide, by grant or contract, for the conduct of research in the use of educational and training films and other educational media for individuals with disabilities, for the production and distribution of educational and training films and other educational media for individuals with disabilities and the training of individuals in the use of such films and media, including the payment to those individuals of such stipends (including allowances for travel and other expenses of such individuals and their dependents) as the Secretary may determine, which shall be consistent with prevailing practices under comparable federally supported programs;

[See main edition for text of (6) and (7)]

(8) provide by grant or contract for educational media and materials for deaf and hard of hearing individuals.

(c) National Theatre of the Deaf; other non-profit organizations

The Secretary may make grants to or enter into contracts or cooperative agreements with the National Theatre of the Deaf, Inc. and other appropriate non-profit organizations for the purpose of providing cultural experiences to—

(1) enrich the lives of deaf and hard of hearing children and adults,

(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard of hearing individuals, and

(3) promote the integration of hearing and deaf and hard of hearing individuals through shared cultural, educational, and social experiences.

(d) Transcribed tapes and cassettes

(1) The Secretary is authorized to make a grant or enter into a contract for the purpose of providing current, free textbooks and other educational publications and materials to blind and other print-handicapped students in elementary, secondary, postsecondary, and graduate schools and other institutions of higher education through the medium of transcribed tapes and cassettes.

(2) For the purpose of this subsection, the term "print-handicapped" refers to any individual who is blind or severely visually impaired, or who, by reason of a physical or perceptual disability, is unable to read printed material unassisted.

(As amended Pub. L. 101-476, title VI, § 602, title IX, § 901(b)(151), (152), Oct. 30, 1990, 104 Stat. 1139, 1149.)

² So in original. Probably should be followed by "and".

AMENDMENTS

1990—Pub. L. 101-476, § 602(1), inserted references to television and descriptive video, in section catchline.

Subsec. (a). Pub. L. 101-476, § 901(b)(151), substituted "individuals with disabilities" for "handicapped individuals" in four places.

Pub. L. 101-476, § 602(2), inserted ", descriptive video," after "films".

Subsec. (b)(3). Pub. L. 101-476, § 602(3)(A), substituted "captioning for deaf and hard of hearing individuals and video description for the visually impaired, of films, television programs, and video materials" for "captioning of films".

Subsec. (b)(4). Pub. L. 101-476, § 602(3)(B), substituted "captioned and video-described films, video materials," for "captioned films" and inserted "or entities" after "agencies".

Subsec. (b)(5). Pub. L. 101-476, § 901(b)(152), substituted "individuals with disabilities" for "handicapped individuals" in two places.

Subsec. (b)(8). Pub. L. 101-476, § 603(3)(C), inserted "and hard of hearing" after "deaf".

Subsec. (c). Pub. L. 101-476, § 602(4)-(7), inserted "and other appropriate non-profit organizations" after "Inc." and substituted "cultural" for "theatrical" in introductory provisions, inserted "and hard of hearing" after "deaf" in pars. (1) and (2), and inserted "and hard of hearing" after "deaf" and ", educational, and social" after "cultural" in par. (3).

Subsec. (d). Pub. L. 101-476, § 602(8), added subsec. (d).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1454 of this title.

§ 1454. Authorization of appropriations

For the purpose of carrying out section 1452 of this title there are authorized to be appropriated \$20,010,000 for fiscal year 1991, \$22,010,000 for fiscal year 1992, \$24,200,000 for fiscal year 1993, and \$26,600,000 for fiscal year 1994.

(As amended Pub. L. 101-476, title VI, § 603, Oct. 30, 1990, 104 Stat. 1140.)

AMENDMENTS

1990—Pub. L. 101-476 amended section generally, substituting provisions authorizing appropriations for section 1452 of this title for fiscal years 1991 to 1994 for provisions authorizing appropriations for this subchapter for fiscal years 1987 to 1989.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SUBCHAPTER VII—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR INDIVIDUALS WITH DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1408, 1409, 1418, 1421 of this title.

§ 1461. Financial assistance

(a) The Secretary may make grants or enter into contracts or cooperative agreements with institutions of higher education, State and local educational agencies, or other appropriate

agencies and organizations for the purpose of advancing the use of new technology, media, and materials in the education of students with disabilities and the provision of related services and early intervention services to infants and toddlers with disabilities. In carrying out this section, the Secretary may fund projects or centers for the purposes of—

(1) determining how technology, assistive technology, media, and materials are being used in the education of individuals with disabilities and how they can be used most effectively, efficiently, and appropriately,

(2) designing and adapting technology, assistive technology, media, and materials to improve the education of students with disabilities,

(3) assisting the public and private sectors in the development and marketing of technology, assistive technology, media, and materials for the education of individuals with disabilities,

(4) disseminating information on the availability and use of technology, assistive technology, media, and materials for the education of individuals with disabilities, where appropriate, to entities described in section 1409(g) of this title,

(5) increasing access to and use of assistive technology devices and assistive technology services in the education of infants, toddlers, children, and youth with disabilities, and other activities authorized under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 [29 U.S.C. 2201 et seq.], as such Act relates to the education of students with disabilities, and

(6) examining how these purposes can address the problem of illiteracy among individuals with disabilities.

(b)(1) With respect to new technology, media, and materials utilized with funds under this subchapter to improve the education of students with disabilities, the Secretary shall make efforts to ensure that such instructional materials are closed captioned.

(2) The Secretary may not award a grant, contract, or cooperative agreement under paragraphs (1) through (4) of subsection (a) of this section unless the applicant for such assistance agrees that activities carried out with the assistance will be coordinated, as appropriate, with the State entity receiving funds under title I of Public Law 100-407 [29 U.S.C. 2211 et seq.].

(As amended Pub. L. 101-476, title VII, § 701, title IX, § 901(b)(154)-(156), Oct. 30, 1990, 104 Stat. 1140, 1149.)

REFERENCES IN TEXT

The Technology-Related Assistance for Individuals With Disabilities Act of 1988, referred to in subsecs. (a)(5) and (b)(2), is Pub. L. 100-407, Aug. 19, 1988, 102 Stat. 1044, as amended, which is classified generally to chapter 24 (§ 2201 et seq.) of Title 29, Labor. Title I of Pub. L. 100-407 is classified generally to subchapter I (§ 2211 et seq.) of chapter 24 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of Title 29 and Tables.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-476, §§ 701(1), (6), 901(b)(154), (155), designated existing provisions as subsec. (a), and in introductory provisions substituted "students with disabilities" for "handicapped students", "provision of related services and early intervention services" for "provision of early intervention", and "infants and toddlers with disabilities" for "handicapped infants and toddlers".

Subsec. (a)(1). Pub. L. 101-476, §§ 701(2), 901(b)(156), inserted "assistive technology," after "technology," and substituted "individuals with disabilities" for "handicapped individuals" and "most effectively, efficiently, and appropriately" for "more effectively".

Subsec. (a)(2). Pub. L. 101-476, §§ 701(3), 901(b)(154), substituted "technology, assistive technology," for "new technology," and "students with disabilities" for "handicapped students".

Subsec. (a)(3). Pub. L. 101-476, §§ 701(3), 901(b)(156), substituted "technology, assistive technology," for "new technology," and "individuals with disabilities" for "handicapped individuals".

Subsec. (a)(4). Pub. L. 101-476, §§ 701(3), (4), 901(b)(156), substituted "technology, assistive technology," for "new technology," and "individuals with disabilities" for "handicapped individuals" and inserted ", where appropriate, to entities described in section 1409(g) of this title".

Subsec. (a)(5), (6). Pub. L. 101-476, § 701(5), added pars. (5) and (6).

Subsec. (b). Pub. L. 101-476, § 701(6), added subsec. (b).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1462. Authorization of appropriations

For the purpose of carrying out this subchapter, there are authorized to be appropriated \$11,900,000 for fiscal year 1991, \$12,860,000 for fiscal year 1992, \$13,890,000 for fiscal year 1993, and \$15,000,000 for fiscal year 1994.

(As amended Pub. L. 101-476, title VII, § 702, Oct. 30, 1990, 104 Stat. 1141.)

AMENDMENTS

1990—Pub. L. 101-476 amended section generally, substituting provisions authorizing appropriations for fiscal years 1991 to 1994 for provisions authorizing appropriations for fiscal years 1987 to 1989.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

SUBCHAPTER VIII—INFANTS AND TODDLERS WITH DISABILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1418, 1422, 1423, 2791, 2792, 2794 of this title; title 42 section 1396b.

§ 1471. Congressional findings and policy

(a) Findings

The Congress finds that there is an urgent and substantial need—

(1) to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay,

(2) to reduce the educational costs to our society, including our Nation's schools, by

minimizing the need for special education and related services after infants and toddlers with disabilities reach school age,

(3) to minimize the likelihood of institutionalization of individuals with disabilities and maximize the potential for their independent living in society, and

(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities.

(b) Policy

It is therefore the policy of the United States to provide financial assistance to States—

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for infants and toddlers with disabilities and their families,

[See main edition for text of (2)]

(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families.

(As amended Pub. L. 101-476, title IX, § 901(b)(158)–(161), Oct. 30, 1990, 104 Stat. 1149.)

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-476, § 901(b)(158), (159), in pars. (1), (2), and (4) substituted "infants and toddlers with disabilities" for "handicapped infants and toddlers" and in par. (3) substituted "Individuals with disabilities" for "handicapped individuals".

Subsec. (b)(1). Pub. L. 101-476, § 901(b)(160), substituted "infants and toddlers with disabilities" for "handicapped infants and toddlers".

Subsec. (b)(3). Pub. L. 101-476, § 901(b)(161), which directed the substitution of "infants and toddlers with disabilities" for "handicapped infants and toddlers", was executed by making the substitution for "handicapped infants, toddlers," to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1472. Definitions

As used in this subchapter—

(1) The term "infants and toddlers with disabilities" means individuals from birth to age 2, inclusive, who need early intervention services because they—

[See main edition for text of (A) and (B)]

Such term may also include, at a State's discretion, individuals from birth to age 2, inclusive, who are at risk of having substantial developmental delays if early intervention services are not provided.

(2) The term "early intervention services" are developmental services which—

[See main edition for text of (A) and (B)]

(C) are designed to meet the developmental needs of an infant or toddler with a dis-

ability in any one or more of the following areas:

[See main edition for text of (i) to (v), (D)]

(E) include—

[See main edition for text of (i) to (viii)]

- (ix) early identification, screening, and assessment services,
- (x) health services necessary to enable the infant or toddler to benefit from the other early intervention services, and
- (xi) social work services,

[See main edition for text of (F) and (G), (3) and (4)]

(As amended Pub. L. 101-476, title VIII, § 801, title IX, § 901(b)(162), (163), Oct. 30, 1990, 104 Stat. 1141, 1149.)

AMENDMENTS

1990—Par. (1). Pub. L. 101-476, § 901(b)(162), substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

Par. (2)(C). Pub. L. 101-476, § 901(b)(163), substituted “the developmental needs of an infant or toddler with a disability” for “a handicapped infant’s or toddler’s developmental needs”.

Par. (2)(E)(xi). Pub. L. 101-476, § 801, added cl. (xi).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1473. General authority

The Secretary shall, in accordance with this subchapter, make grants to States (from their allocations under section 1484 of this title) to assist each State to develop a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

(As amended Pub. L. 101-476, title IX, § 901(b)(164), Oct. 30, 1990, 104 Stat. 1150.)

AMENDMENTS

1990—Pub. L. 101-476 substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1475. Continuing eligibility

[See main edition for text of (a) to (c)]

(d) Exception

Notwithstanding subsections (a) and (b) of this section, a State which has in effect a State law, enacted before September 1, 1986, that requires the provision of free appropriate public education to children with disabilities from birth through age 2, inclusive, shall be eligible for a grant under section 1473 of this title for the first through fourth years of a State’s participation under this subchapter.

(As amended Pub. L. 101-476, title IX, § 901(b)(165), Oct. 30, 1990, 104 Stat. 1150.)

AMENDMENTS

1990—Subsec. (d). Pub. L. 101-476 substituted “children with disabilities” for “handicapped children”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1476. Requirements for statewide system

(a) In general

A statewide system of coordinated, comprehensive, multidisciplinary, interagency programs providing appropriate early intervention services to all infants and toddlers with disabilities and their families shall include the minimum components under subsection (b) of this section.

(b) Minimum components

The statewide system required by subsection (a) of this section shall include, at a minimum—

[See main edition for text of (1)]

(2) timetables for ensuring that appropriate early intervention services will be available to all infants and toddlers with disabilities in the State before the beginning of the fifth year of a State’s participation under this subchapter,

(3) a timely, comprehensive, multidisciplinary evaluation of the functioning of each infant and toddler with a disability in the State and the needs of the families to appropriately assist in the development of the infant or toddler with a disability,

(4) for each infant and toddler with a disability in the State, an individualized family service plan in accordance with section 1477 of this title, including case management services in accordance with such service plan,

[See main edition for text of (5)]

(6) a public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services as required under this paragraph to parents of infants with disabilities,

[See main edition for text of (7)]

(8) a comprehensive system of personnel development, including training of primary referral sources respecting the basic components of early intervention services available in the State,

(9) a single line of responsibility in a lead agency designated or established by the Governor for carrying out—

[See main edition for text of (A) to (C)]

(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families in a timely manner pending the resolution of any disputes among public agencies or service providers,

[See main edition for text of (E) and (F), (10) to (13)]

(14) a system for compiling data on the numbers of infants and toddlers with disabilities and their families in the State in need of appropriate early intervention services (which may be based on a sampling of data), the numbers of such infants and toddlers and their families served, the types of services provided (which may be based on a sampling of data), and other information required by the Secretary.

(As amended Pub. L. 101-476, title VIII, § 802, title IX, § 901(b)(166)-(173), Oct. 30, 1990, 104 Stat. 1141, 1150.)

AMENDMENTS

1990—Subsecs. (a), (b)(2). Pub. L. 101-476, § 901(b)(166), (167), substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

Subsec. (b)(3). Pub. L. 101-476, § 901(b)(168), (169), substituted “infant and toddler with a disability” and “infant or toddler with a disability” for “handicapped infant and toddler” and “handicapped infant or toddler”, respectively.

Subsec. (b)(4). Pub. L. 101-476, § 901(b)(170), which directed the substitution of “infants and toddlers with disabilities” for “handicapped infants and toddlers”, was executed by substituting “infant and toddler with a disability” for “handicapped infant and toddler” to reflect the probable intent of Congress.

Subsec. (b)(6). Pub. L. 101-476, § 901(b)(171), substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

Pub. L. 101-476, § 802(1), inserted before comma at end “, including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services as required under this paragraph to parents of infants with disabilities”.

Subsec. (b)(8). Pub. L. 101-476, § 802(2), inserted before comma at end “, including training of primary referral sources respecting the basic components of early intervention services available in the State”.

Subsec. (b)(9)(D), (14). Pub. L. 101-476, § 901(b)(172), (173), substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1477. Individualized family service plan

(a) Assessment and program development

Each infant or toddler with a disability and the infant's or toddler's family shall receive—

[See main edition for text of (1) and (2); (b) and (c)]

(d) Content of plan

The individualized family service plan shall be in writing and contain—

[See main edition for text of (1)]

(2) a statement of the family's strengths and needs relating to enhancing the development of the family's infant or toddler with a disability,

[See main edition for text of (3) to (6)]

(7) the steps to be taken supporting the transition of the toddler with a disability to services provided under subchapter II of this chapter to the extent such services are considered appropriate.

(As amended Pub. L. 101-476, title IX, § 901(b)(174)-(176), Oct. 30, 1990, 104 Stat. 1150.)

AMENDMENTS

1990—Pub. L. 101-476 substituted “infant or toddler with a disability” for “handicapped infant or toddler” in subsecs. (a) and (d)(2) and “toddler with a disability” for “handicapped toddler” in subsec. (d)(7).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1478. State application and assurances

[See main edition for text of (a)]

(b) Statement of assurances

Any State desiring to receive a grant under section 1473 of this title shall file with the Secretary a statement at such time and in such manner as the Secretary may reasonably require by regulation. Such statement shall—

[See main edition for text of (1) to (4)]

(5) provide satisfactory assurance that Federal funds made available under section 1473 of this title (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant such State and local funds,

[See main edition for text of (6) and (7); (c)]

(As amended Pub. L. 101-476, title IX, § 901(b)(177), Oct. 30, 1990, 104 Stat. 1150.)

AMENDMENTS

1990—Subsec. (b)(5). Pub. L. 101-476 substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1479. Uses of funds

In addition to using funds provided under section 1473 of this title to plan, develop, and implement the statewide system required by sec-

tion 1476 of this title, a State may use such funds—

(1) for direct services for infants and toddlers with disabilities and their families that are not otherwise provided from other public or private sources, and

(2) to expand and improve on services for infants and toddlers with disabilities and their families that are otherwise available.

(As amended Pub. L. 101-476, title IX, § 901(b)(178), Oct. 30, 1990, 104 Stat. 1150.)

AMENDMENTS

1990—Pub. L. 101-476 substituted “infants and toddlers with disabilities” for “handicapped infants and toddlers” in pars. (1) and (2).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1480. Procedural safeguards

The procedural safeguards required to be included in a statewide system under section 1476(b)(12) of this title shall provide, at a minimum, the following:

[See main edition for text of (1) to (3)]

(4) Procedures to protect the rights of the infant or toddler with a disability whenever the parents or guardian of the child are not known or unavailable or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency providing services) to act as a surrogate for the parents or guardian.

(5) Written prior notice to the parents or guardian of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the infant or toddler with a disability.

[See main edition for text of (6) and (7)]

(As amended Pub. L. 101-476, title IX, § 901(b)(179), (180), Oct. 30, 1990, 104 Stat. 1150.)

AMENDMENTS

1990—Pars. (4), (5). Pub. L. 101-476 substituted “infant or toddler with a disability” for “handicapped infant or toddler” in par. (4) and in two places in par. (5).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1481. Payor of last resort

[See main edition for text of (a)]

(b) Reduction of other benefits

Nothing in this subchapter shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act [42 U.S.C. 701 et seq.] (relating to maternal and child health)

or title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (relating to medicaid for infants or toddlers with disabilities) within the State.

(As amended Pub. L. 101-476, title IX, § 901(b)(181), Oct. 30, 1990, 104 Stat. 1150.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-476 substituted “infants or toddlers with disabilities” for “handicapped infants and toddlers”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1482. State Interagency Coordinating Council

[See main edition for text of (a) to (d)]

(e) Functions of Council

The Council shall—

[See main edition for text of (1) and (2)]

(3) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants or toddlers with disabilities and their families operated within the State.

[See main edition for text of (f) and (g)]

(As amended Pub. L. 101-476, title IX, § 901(b)(182), Oct. 30, 1990, 104 Stat. 1150.)

AMENDMENTS

1990—Subsec. (e)(3). Pub. L. 101-476 substituted “infants or toddlers with disabilities” for “handicapped infants and toddlers”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1483. Federal administration

Sections 1416, 1417, and 1420 of this title shall, to the extent not inconsistent with this subchapter, apply to the program authorized by this subchapter, except that—

[See main edition for text of (1)]

(2) any reference to the education of children with disabilities and the education of all children with disabilities and the provision of free public education to all children with disabilities shall be deemed to be a reference to the provision of services to infants and toddlers with disabilities in accordance with this subchapter, and

[See main edition for text of (3)]

(As amended Pub. L. 101-476, title IX, § 901(b)(183), (184), Oct. 30, 1990, 104 Stat. 1151.)

AMENDMENTS

1990—Par. (2). Pub. L. 101-476 substituted “children with disabilities” for “handicapped children” in three

places and "infants and toddlers with disabilities" for "handicapped infants and toddlers".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1484. Allocation of funds

[See main edition for text of (a)]

(b) Payments to Secretary of the Interior for assistance to Indians

(1) The Secretary shall make payments to the Secretary of the Interior according to the need for such assistance for the provision of early intervention services to infants and toddlers with disabilities and their families on reservations serviced by the elementary and secondary schools operated for Indians by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this subchapter for that fiscal year.

[See main edition for text of (2); (c) and (d)]

(As amended Pub. L. 101-476, title IX, § 901(b)(185), Oct. 30, 1990, 104 Stat. 1151.)

AMENDMENTS

1990—Subsec. (b)(1). Pub. L. 101-476 substituted "infants and toddlers with disabilities" for "handicapped infants and toddlers".

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101-476, set out as a note under section 238 of this title.

§ 1485. Authorization of appropriations

STUDY OF SERVICES; COORDINATION OF ACTIONS

Section 101(b) of Pub. L. 90-457 directed Secretary of Education and Secretary of Health and Human Services to conduct a joint study of Federal funding sources and services available for early intervention programs and to act jointly to facilitate interagency coordination of Federal resources for such programs and to ensure that funding available to handicapped infants, toddlers, children, and youth from Federal programs, other than programs under this chapter was not being withdrawn or reduced and further directed Secretary of Education and Secretary of Health and Human Services to submit, not later than 18 months after Oct. 8, 1986, a joint report to Congress describing findings of study and describing joint action taken.

CHAPTER 34—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

§ 1505. Membership

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

CHAPTER 38—DISCRIMINATION BASED ON SEX OR BLINDNESS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1132f-1, 1232, 3041, 3042 of this title; title 29 sections 206, 1577; title 42 sections 290cc-33, 300w-7, 300x-7, 708, 1988, 2000d-7, 10406, 12635.

CHAPTER 39—EQUAL EDUCATIONAL OPPORTUNITIES AND TRANSPORTATION OF STUDENTS

SUBCHAPTER I—EQUAL EDUCATIONAL OPPORTUNITIES

PART 3—ENFORCEMENT

§ 1707. Population changes without effect, per se, on school population changes

When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

(Pub. L. 93-380, title II, § 208, Aug. 21, 1974, 88 Stat. 516.)

CODIFICATION

Section is set out in this supplement to correct typographical error appearing in the main edition.

CHAPTER 42—HARRY S TRUMAN MEMORIAL SCHOLARSHIPS

§ 2011. Executive Secretary of Foundation

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 2012. Administrative provisions

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5378 of Title 5.